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DÁIL EIREANN

DÍOSBÓIREACHTAÍ PÁIRLIMINTE

(PARLIAMENTARY DEBATES)

TUAIRISG OIFIGIÚIL

(OFFICIAL REPORT)

IMLEABHAR IV.

(VOLUME IV.)

I gcóir na tréimhse ón 3adh Iúl, 1923, go 9adh Lughnasa, 1923, sa tSiosón,
6adh Mí na Nodlag, 1922—9adh Lughnasa, 1923.

(Comprising period from 3rd July, 1923, to 9th August, 1923, in Session
6th December, 1922—9th August, 1923.)

BAILE ATHA CLIÁTH
(DUBLIN)

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DÁIL EIREANN.

LUCHT AN RIALTAIS

(Members of Government).

(*MI NA NODLAG*, 1922.)

LUCHT NA hARD-CHOMHAIRLE :—

(Members of the Executive Council) :—

Uachtarán agus Aire Airgid—LIAM T. MAC COSGAIR, T.D.

(President and Minister for Finance—W. T. COSGRAVE, T.D.)

Leas-Uachtarán agus Aire um Ghnóthaí Dúithche—CAOIMHGHÍN Ó HUIGÍN, T.D.

(Vice-President and Minister for Home Affairs—KEVIN O'HIGGINS, T.D.)

Aire um Thiúscal agus Tráchtáil—SEOSAMH MAG CRAITH, T.D.

(Minister for Industry and Commerce—JOSEPH McGRATH, T.D.)

Aire Oideachais—EOIN MAC NÉILL, OLLAMH, T.D.

(Minister for Education—EOIN MACNEILL, D.LITT., T.D.)

Aire um Rialtas Áitiúil—EARNÁN DE BLAGHD, T.D.

(Minister for Local Government—ERNEST BLYTHE, T.D.)

Aire um Ghnóthaí Coigeríche—DEASMHUMHAIN MAC GEARAILT, T.D.

(Minister for External Affairs—DESMOND FITZGERALD, T.D.)

Aire Cosanta—RISTEARD Ó MAOLCHATHA, T.D.

(Minister for Defence—GENERAL RICHARD MULCAHY, T.D.)

AIRÍ NÁCH BAILL DEN ÁRD-CHOMHAIRLE :—

(Ministers who are not Members of the Executive Council) :—

Aire Talmhuíochta—PÁDRAIG Ó HÓGÁIN, T.D.

(Minister for Agriculture—PATRICK HOGAN, T.D.)

Aire an Phuist—SEUMAS S. BREATHNACH, T.D.

(Postmaster-General—JAMES J. WALSH, T.D.)

Aire um Iasgach—FIONÁN Ó LOINGSIGH, T.D.

(Minister for Fisheries—FINIAN LYNCH, T.D.)

Ard-Atúrnae—AODH UA CINNÉIDE, K.C.

(Attorney-General—HUGH KENNEDY, K.C.).

PRÍOMH-OIFIGIGH.

(PRINCIPAL OFFICERS.)

Ceann Comhairle—MICHEÁL Ó hAODHA, T.D. (Michael Hayes, T.D.)
(Speaker).

Leas-Cheann Comhairle—PÁDRAIC Ó MÁILLE, T.D.
(Deputy-Speaker).

Cléireach na Dála—COLM Ó MURCHADHA.
(Clerk of the Dáil).

Fo-Chléireach—GEARÓID MAG CANAINN.
(Assistant-Clerk).

Captaen an Ghárda—TOMÁS Ó BROIN.
(Captain of the Guard).

DÁIL EIREANN.

AINMNEACA TEACHTAI

Do toghadh i Mí an Mheithimh, 1922 ; agus a nDáil-Cheanntair.
(List of Deputies elected in June, 1922 ; and Constituencies).

(a) Teachtaí nár thóg a suidheacháin.—(Deputies who did not take their seats.)

(b) Teachtaí do cailleadh.—(Deceased Deputies.)

(c) Teachtaí do thug suas.—(Deputies who resigned.)

Altún, Earnán ...	... Ollsgoil Bhaile Atha Cliath. (Alton, E. ; Dublin University).
(a) Bartún, Riobárd ...	... Contae Chill Dara agus Chill Mantáin. (Barton, R. ; Kildare and Wicklow).
Béaslai, Piaras ...	... Ciarraidhe agus Luimneach Thiar. (Beaslai, P. ; Kerry and W. Limerick).
Blaghd, Earnán de ...	... Contae Mhuineacháin. (Blythe, E. ; Monaghan).
Breathnach, Séamus ...	... Buirg Chorcaighe. (Walsh, J. J. ; Cork City).
(b) Brughá, Cathal ...	... Tiobrad Arann Thoir, Portláirge agus Buirg Phortláirge. (Brughá, C. ; Tipp. E., Waterford Co. and City).
Buitléir, Seán ...	... Tiobrad Arann Thoir, Portláirge agus Buirg Phortláirge. (Butler, J. ; Tipp. E., Waterford Co. and City).
Bulfin, Próinsias ...	... Laoighis agus Ó bhFáilghe. (Bulfin, F. ; Leix and Offaly).
Burca, Séamus de ...	... Tiobrad Arann Thuaidh, Meadh agus Theas. (Burke, J. ; N., Mid. and S. Tipperary).
(a) Ceannt, Dáithí ...	... Corcaigh Thoir agus Thoir-Thuaidh. (Kent, D. ; Cork E. and N.E.).
(a) Cíosóg, Brian de ...	... Contae na Gaillimhe. (Cusack, B. ; Galway).
(a) Colivet, Micheál ...	... Luimneach Thoir agus Buirg Luimnighe. (Collivet, M. ; Limerick City and E. Limerick).
Craig, Sir Séamus, Ridire, M.D.	Ollsgoil Bhaile Atha Cliath. (Craig, Sir J., M.D. ; Dublin University).
Duram, Micheál de ...	... Contae Bhaile Atha Cliath. (Derham, M. ; Co. Dublin).
Éabhróid, Séamus ...	... Contae Chill Dara agus Chill Mantáin. (Everett, J. ; Kildare and Wicklow).
Faoite, Uinseann de ...	... Tiobrad Arann Thoir, Portláirge agus Buirg Phortláirge. (White, V. ; Tipp. E., Waterford Co. and City).
Fíges, Darghal ...	... Contae Bhaile Atha Cliath. (Figgis, D. ; Co. Dublin).
Mac a' Bháird, Peadar ...	... Contae Dhún na nGall. (Ward, P. J. ; Donegal).
Mac Artáin, Pádraig ...	... Laoighis agus Ó bhFáilghe. (McCartan, P. ; Leix and Offaly).
Mac Artúir, Tomás ...	... Liathdruim agus Roscomáin Thuaidh. (Carter, T. Leitrim and N. Roscommon).
Mac Cába, Alasdair ...	... Muigheó Thoir agus Sligeach. (McCabe, A. ; Mayo E., and Sligo).

- Mac Cárthaigh, Domhnall Cathair Bhaile Atha Cliath Theas. (McCarthy, D. ; S. Dublin City).
- (a) Mac Cárthaigh, Próinsias ... Muigheo Thoir agus Sligeach. (Carty, F. ; Mayo E. and Sligo).
- (a) Mac Cearbhaill, Pádraig ... Contae Mhuineacháin. (McCarville, P. ; Monaghan)
- Mac Cosgair, Liam T. ... Contae Cheatharlach agus Chill-Choinnigh. (Cosgrave, W. T. ; Carlow and Kilkenny).
- Mac Cosgair, Pilib ... Baile Atha Cliath Thiar-Thuaidh. (Cosgrave, P. ; N.W. Dublin).
- Mac Cumhaill, Uáitéar ... Contae Chabháin. (Cole, W. L. ; Cavan).
- (b) Mac Donnchadha, Seosamh Tiobrad Arann Thuaidh, Meadh agus Theas. (McDonagh, J. ; N., Mid. and S. Tipperary).
- Mac Eochadha, Maolmhuire Cathair Bhaile Atha Cliath Theas. (Keogh, M. ; S. Dublin City).
- Mac Eoin, Seán ... Contae Longphuirt agus na hIar-Mhidhe. (McKeon, Sean ; Longford and Westmeath).
- Mac Eoin, Tomás ... Contae Bhaile Atha Cliath. (Johnson, T. ; Co. Dublin).
- Mac Fheórais, Risteárd ... Contae Loch Garman. (Corish, R. ; Wexford).
- (a) Mac Gamhna, Pádraig ... Contae Cheatharlach agus Chill Choinnigh. (Gaffney, P. ; Carlow and Kilkenny).
- Mac Garaidh, Seán ... Baile Atha Cliath Meadh. (McGarry, Sean ; Mid. Dublin).
- Mac Gearailt, Deasmhúhain Contae Bhaile Atha Cliath. (FitzGerald, D. ; Co. Dublin).
- Mac Giobúin, Gearóid ... Ollscoil Bhaile Atha Cliath. (FitzGibbon, G. ; Dublin University).
- Mac Giolla Bhrighde, Seosamh Muigheo Thuaidh agus Thiar (MacBride, J. ; N. and W. Mayo).
- (b) Mac Haol, Seán ... Corcaigh Thuaidh, Meadh, Thiar, Theas agus Thoir-Theas. (Hales, Sean ; Cork N., Mid., W., S. and S.E.).
- Mac Liam, Risteárd ... Contae Chill Dara agus Chill Mantáin. (Wilson, R. ; Kildare and Wicklow).
- Mac Néill, Eoin ... Ollscoil Náisiúnta. (MacNeill, Eoin ; National University).
- Mac Niocail, Seoirse ... Contae na Gaillimhe. (Nicholls, G. ; Galway).
- Mac Sioghaird, Liam ... Muigheo Theas agus Roscomáin Theas. (Sears, W. ; S. Mayo and S. Roscommon).
- Mac Suibhne, Seosamh ... Contae Dhún na nGall. (McSweeney, J. ; Donegal).
- Mag Aonghusa, Liam ... Ollscoil Náisiúnta. (Magennis, W. ; National University).
- Mag Aonghusa, Próinsias ... Contae Longphuirt agus na hIar-Mhidhe. (McGuinness, F. ; Longford and Westmeath).
- Mag Craith, Seosamh ... Baile Atha Cliath Thiar-Thuaidh. (McGrath, J. ; N.W. Dublin).
- (b) Mag Fhionnghail, Labhrás ... Contae Longphuirt agus na hIar-Mhidhe. (Ginnell, L. ; Longford and Westmeath).
- Mag Fhionnlaoich, Seosamh Contae Dhún na nGall. (McGinley, J. ; Donegal).
- Mag Ualghairg, Pádraig ... Contae Dhún na nGall. (McGoldrick, P. ; Donegal).
- (a) Mag Uidhir, Tomás ... Muigheo Theas agus Roscomáin Theas. (Maguire, T. ; S. Mayo and S. Roscommon).

Nógla, Tomás de ...	Corcaigh Thuaidh, Meadh, Thiar, Theas agus Thoir-Theas. (Nagle, T. ; Cork, N., Mid., W., S. and S.E.).
(b) Ó Beoláin, Énrí ...	Muigheo Theas agus Roscomáin Theas. (Boland. H. ; S. Mayo and S. Roscommon).
(c) Ó Braonáin, Pádraig	Contae an Chláir. (Brennan, P. ; Clare).
Ó Briain, Liam ...	Cathair Bhaile Atha Cliath Theas. (O'Brion, W. ; S. Dublin City).
Ó Broin, Ailfrid ...	Baile Atha Cliath Meadh. (Byrne, A. ; Mid. Dublin).
Ó Broin, Criostóir	Contaetha Chill Dara agus Chill Mantáin. (Byrne, C. M. ; Kildare and Wicklow).
Ó Broin, Domhnall	Tiobrad Arann Thoir, Portláirge agus Buirg Phortláirge. (O'Byrne, D. ; Tipp. E., Waterford Co. and City).
(b) Ó Brolacháin, Mícheál	Corcaigh Thuaidh, Meadh, Thiar, Theas agus Thoir-Theas. (Bradley, M. ; Cork N., Mid., W., S. and S.E.).
(a) Ó Cathail, Pádraig	Giarraidhe agus Luimneach Thiar (Cahill, P. J. ; Kerry and W. Limerick).
Ó Ceallacháin, Domhnall	Contae Loch Garman. (O'Callaghan, D. ; Wexford).
(a) Ó Ceallaigh, Seán	Contaetha Lughmhaighe agus na Midhe. (O'Kelly, J. J. ; Louth and Meath).
(a) Ó Ceallaigh, Seán T.	Baile Atha Cliath Meadh. (O'Kelly, Sean T. ; Mid. Dublin).
(a) Ó Ceallaigh, Tomás	Cathair Bhaile Atha Cliath Theas. (Kelly, T. ; S. Dublin City).
(a) Ó Coileáin, Conchubhar	Giarraidhe agus Luimneach Thiar. (Collins, C. ; Kerry and W. Limerick).
(b) Ó Coileáin, Mícheál	Corcaigh Thuaidh, Meadh, Thiar, Theas agus Thoir-Theas. (Collins, M. ; Cork N., Mid., W., S. and S.E.).
Ó Conaill, Tomás	Contae na Gaillimhe. (O'Connell, T. J. ; Galway).
(a) Ó Corcora, Domhnall	Corcaigh Thuaidh, Meadh, Thiar, Theas agus Thoir-Theas. (Corkery, D. ; Cork, N., Mid., W., S. and S.E.).
Ó Cruadhlaoidh, Séamus	Giarraidhe agus Luimneach Thiar. (Crowley, J. ; Kerry and W. Limerick).
(a) Ó Cruadhlaoidh, Seán	Muigheo Thuaidhe agus Thiar. (Crowley, J. ; N. and W. Mayo).
Ó Cúlacháin, Aodh	Contaetha Chill Dara agus Chill Mantáin. (Colohan, H. ; Kildare and Wicklow).
Ó Daimhín, Liam	Laoighis agus Ó bhFáilge. (Davin, W. ; Leix and Offaly).
(b) Ó Daimhín, Séamus	Muigheo Thoir agus Sligeach. (Devins, J. ; Mayo E., and Sligo).
(a) Ó Dochartaigh, Seosamh	Contae Dhún na nGall. (O'Doherty, J. ; Donegal).
Ó Deaghaidh, Riobárd	Buirg Chorcaighe. (Day, R. ; Cork City).
(a) Ó Deirg, Tomás ...	Muigheo Thuaidh agus Thiar. (Derrig, T. ; N. and W. Mayo).
Ó Dóláin, Séamus	Liathdruim agus Roscomáin Thuaidh. (Dolan, J. N. ; Leitrim and N. Roscommon).
Ó Domhnaill, Tomás	Muigheo Thoir agus Sligeach. (O'Donnell, T. ; Mayo E. and Sligo).

- (a) Ó Donnchú, Tomás ... Ciarraidhe agus Luimneach Thiar. (O'Donoghue, T. ; Kerry and W. Limerick).
- (c) Ó Dubhthaigh, Eoin ... Contae Mhuineacháin. (O'Duffy, Eoin ; Monaghan).
- Ó Dubhghaill, Micheál ... Contae Loch Garman. (Doyle, M., Wexford).
- (a) Ó Dubhghaill, Séamus ... Contae Loch Garman. (Doyle, J. ; Wexford).
- Ó Dúgáin, Eamon ... Contae the Lughmhaighe agus na Midhe. (Duggan, E. ; Louth and Meath).
- Ó Duinnín, Scán ... Corcaigh Thoir agus Thoir-Thuaidh. (Dinneen, J. ; Cork E., and N.E.).
- Ó Faoileacháin, Seosamh ... Contae na Gaillimhe. (Whelohan, J. ; Galway).
- Ó Faoláin, Nioclás ... Tiobrad Arann Thoir, Portláirge agus Buirg Phortláirge (Phelan, N. ; Tipp. E., Waterford (Co. and City)).
- (a) Ó Fathaigh, Próinsias ... Contae na Gaillimhe. (Fahy, F. ; Galway).
- (a) Ó Fearáin, Próinsias ... Muigheo Thoir agus Sligeach (Ferran, F. ; Mayo E., and Sligo)
- (a) Ó Flaithbheartaigh, Somhairle Contae Dhún na nGall. (O'Flaherty, S. ; Donegal).
- (b) Ó Griobhtha, Art ... Contae Chabháin. (Griffith, A. ; Cavan).
- Ó Guaire, Donchadh ... Contae the Cheatharloch agus Chill-Choinnigh. (Gorey, D. J. ; Carlow and Kilkenny).
- Ó hAodha, Liam ... Luimneach Thoir agus Buirg Luimnighe. (Hayes, W. ; Limerick City and E. Limerick).
- Ó hAodha, Micheál ... Ollscoil Náisiúnta. (Hayes, M. ; National University).
- Ó hAodha, Peadar ... Contae the Lughmhaighe agus na Midhe. (Hughes, P. ; Louth and Meath).
- Ó hAodha, Risteárd ... Luimneach Thoir agus Buirg Luimnighe. (Hayes, R. ; Limerick City and E. Limerick).
- Ó hAodha, Seán ... Corcaigh Thuaidh, Meadh, Thiar, Theas agus Thoir-Theas. (Hayes, Sean, Cork N., Mid, W., S. and S.E.).
- Ó hAonghusa, Micheál ... Corcaigh Thoir agus Thoir-Thuaidh. (Hennessy, M. J. ; Cork E. and N.E.).
- Ó hÓgáin, Pádraig ... Contae na Gaillimhe. (Hogan, P. ; Galway).
- Ó hUigín, Caoimhghin ... Laoighis agus Ó bhFáilghe. (O'Higgins, K. ; Leix and Offaly).
- (a) Ó hUiginn, Brian ... Contae an Chláir. (O'Higgins, B. ; Clare).
- Ó Laidhin, Seán ... Contae the Longphuirt agus na hIar-Mhidhe. (Lyons, J. ; Longford and Westmeath).
- Ó Láimhín, Aindriú ... Liathdruim agus Roscomáin Thuaidh. (Lavin, A. ; Leitrim and N. Roscommon).
- (c) Ó Lideadha, Seán ... Contae an Chláir. (Liddy, J. ; Clare).
- Ó Loingsigh, Fionán ... Ciarraidhe agus Luimneach Thiar. (Lynch, F. ; Kerry and W. Limerick).
- Ó Máille, Pádraic ... Contae na Gaillimhe. (O'Maille, P. ; Galway).
- (a) Ó Maoláin, Seán ... Corcaigh Thuaidh, Meadh, Thiar, Theas agus Thoir-Theas. (Moylan, Seán ; Cork N., Mid., W., S. and S.E.).

- Ó Maolchatha, Risteárd ... Baile Atha Cliath Thiar-Thuaidh. (Mulcahy, R. ; N.W. Dublin).
- (a) Ó Maoldhomhnaigh, Pádraig ... Tiobrad Arann Thuaidh, Meadh agus Theas. (Moloney, P. J. ; N., Mid., and S. Tipperary).
- Ó Maolruaidh, Seán ... Contae Chabháin. (Milroy, Sean. ; Cavan).
- Ó Mocháin, Domhnall ... Corcaigh Thuaidh, Meadh, Thiar, Theas agus Thoir-Theas. (Vaughan, D. ; Cork N., Mid., W., S. and S.E.).
- Ó Muirgheasa, Domhnall ... Tiobrad Arann Thuaidhe, Meadh agus Theas. (Morrissey, D. ; N., Mid, and S. Tipperary).
- Ó Murchadha, Séamus ... Contaethe Lughmhaighe agus na Midhe. (Murphy, J. ; Louth and Meath).
- (a) Ó Néill, Lorcán ... Baile Atha Cliath Meadh. (O'Neill, L. ; Mid. Dublin).
- (c) Ó Ruairo, Domhnall ... Muigheo Theas agus Roscomáin Theas. (O'Rourke, D. ; S. Mayo and S. Roscommon).
- Ó Ruanaidh, Seán ... Contae Bhaile Atha Cliath. (Rooney, J. ; Co. Dublin).
- Ó Seanáin, Cathal ... Contaethe Lughmhaighe agus na Midhe. (O'Shannon, C. ; Louth and Meath).
- Ó Súileabháin. Gearóid ... Contaethe Cheatharloch agus Chill-Choinnigh. (O'Sullivan, G. ; Carlow and Kilkenny).
- (a) Pluingceud, Seoirse Uasal (Cúnt) ... Liathdruim agus Roscomáin Thuaidh. (Plunkett, G. N., Count ; Leitrim and N. Roscommon).
- (a) Róiste, Eamon de ... Ciarraidhe agus Luimneach Thiar. (Roche, E. ; Kerry and W. Limerick).
- Róiste, Liam de ... Buirg Chorcaighe. (Roiste, L. de ; Cork City).
- (a) Ruithléis, Pádraig ... Muigheo Thuaidh agus Thiar. (Rutledge, P. ; N. and W. Mayo).
- (a) Shuibhne, Máire nic ... Buirg Chorcaighe (McSwiney, Miss M. ; Cork City).
- (a) Stac, Aibhistín de ... Ciarraidhe agus Luimneach Thiar. (Stack, A. ; Kerry and W. Limerick).
- Stáineas, Micheál de ... Baile Atha Cliath Thiar-Thuaidh. (Staines, M. ; N.W. Dublin).
- (a) Stockley, Liam ... Ollsgoil Náisiúnta. (Stockley, W. ; National University).
- Thrift, Liam ... Ollsgoil Bhaile Atha Cliath. (Thrift, W. ; Dublin University).
- (a) Uí Cheallacháin, Cáit, Bean ... Luimneach Thoir agus Buirg Luimnighe. (O'Callaghan, Mrs. K. ; Limerick City and E. Limerick).
- Uí Dhubhthaigh, Seoirse Ghabháin. ... Contae Bhaile Atha Cliath. (Duffy, G. G. ; Co Dublin).
- (a) Valéra, Eamon de ... Contae an Chláir. (Valera, E. de ; Clare).

DÁIL EIREANN.

DÍOSBÓIREACHTAÍ PÁIRLIMINTE (PARLIAMENTARY DEBATES).

TUAIRISG OIFIGIÚIL (OFFICIAL REPORT).

IMLEABHAR IV (Volume IV).

DÁIL EIREANN.

DE MAIRT, 3ADH IUL, 1923.

(Tuesday, 3rd July, 1923.)

Do cromadh ar obair an lae ar 3.10 p.m. Bhí an Ceann Comhairle Micheál O hAodha 'sa Chathaoir.

GEISTEANNA—QUESTIONS.

[ORAL ANSWERS.]

DATES OF ELECTIONS.

AILFRID O BROIN asked the President if he will state whether a definite date has been fixed for An Dáil and Municipal elections; if so, will he now give the dates.

The PRESIDENT: The answer is in the negative as regards the Dáil election, and the date for Municipal elections is at present the 12th September. Both dates depend on the date fixed for the coming into force of the Register, and the printing is not yet sufficiently advanced to admit of the latter date being fixed with certainty.

Mr. DARRELL FIGGIS: Arising out of that, would the President be able to state whether, according to the present attitude of the Executive Council, it is intended to take the Dáil elections before the local elections, or *vice versa*?

The PRESIDENT: I believe the general impression is that the Dáil elections will take place first.

ALLOTMENTS BILL.

AILFRID O BROIN asked the Minister for Local Government whether, with reference to reply given by the Minister for Agriculture on 20th June, 1923, it is intended to introduce an Allotments Bill during the present session of An Dáil; whether such Bill would apply only to the

larger urban centres, as indicated, and whether he considers it expedient that the administration of allotments should be undertaken by separate Government Departments.

MINISTER for LOCAL GOVERNMENT (Mr. E. Blythe): It is not proposed to introduce a general Allotments Bill this session. Pending the passing of such a measure, steps have been taken to secure the interests of all existing plot-holders.

The provision of allotments must necessarily be dealt with in Acts of Parliament relating both to land and to the functions of local authorities. No administrative difficulty is likely to arise.

Mr. A. BYRNE: May I ask the Minister whether he gave any promise to the Allotment Holders' Union that a Bill would be introduced this session?

Mr. BLYTHE: It is not possible, in view of the congestion of business, and the various difficulties that have been encountered in drafting the Bill, to have anything done this session.

Mr. BYRNE: That is not an answer to my question; it is an evasion. Was there any promise made to the Allotment Holders' representatives that a Bill would be introduced?

Mr. BLYTHE: I have no recollection of meeting the representatives of the Allotment Holders.

P.O. RE-ORGANISATION.

AILFRID O BROIN asked the Postmaster-General whether the scheme of re-organisation which was submitted by the Post Office Engineering Union to the Douglas Commission, at the request of the Chairman, has been considered; if so, will he state the result.

POSTMASTER GENERAL (Mr. J. J. Walsh): The Engineering Union case has not been dealt with by the Douglas

[Mr. J. J. Walsh.]

Commission in the first part of its report now under consideration by the Executive. I am unable to say when this particular case will be taken up by the Commission.

Mr. BYRNE: Will the Minister give an assurance that the recommendations will be considered?

Mr. WALSH: I am afraid the Minister cannot give any such assurance.

CLOSING OF SUB-POST OFFICE.

MICHEAL DE STAINEAS asked the Postmaster-General whether and when he intends re-opening the sub-office at Finglas Road.

Mr. WALSH: I have gone into this personally and exhaustively and I find that the sub-office at Finglas Road was discontinued on vacancy as the needs of the district were considered to be fully met by the existing offices in the locality. The business at that office was comparatively small and unimportant, and I do not see any sufficient justification for re-opening it, especially in view of the general desire to avoid unnecessary expenditure.

Mr. STAINES: Does the Postmaster-General consider that it is in accordance with the advice of the members of the Government and Deputies that the traders and other people during the past twelve months carried on, and he is now closing up sub-offices and pillar boxes in Dublin?

Mr. WALSH: No pillar boxes have been closed in Dublin. A certain number of these have been injured by irregular activities and put out of action for the time being. These will be rectified in due course. With regard to the closing of sub-offices, as far as I know this is the first. It may be the first of a number, but it is the first, at any rate.

WATERFORD FARM DISPUTE.

CATHAL O'SHANNON (for Liam O Briain) asked the Minister for Defence if he is aware that it is alleged that on Friday, June 15th, about 100 members of the I.T.G.W. Union, concerned in the County Waterford Farm Dispute, who were waiting to receive dispute pay on the roadside at Newtown, Co. Waterford, were ordered off the road by Drill Instructor McFadden of Carroll's Cross, who was in charge of a party of military; that on the men adjourning

to an adjacent school, Drill Instructor McFadden followed them, and after placing a guard on both doors of the school, addressed the men, using very offensive and threatening language, and in the course of which he is alleged to have stated he was there to uphold the rule of the rifle, and that, if necessary, he would take out some of those present into the adjacent field, and put the red badge (the badge of the I.T.G.W.U.) through their hearts with a bullet, and to ask whether the Minister will order that an inquiry will be held into these allegations.

MINISTER for DEFENCE (General Mulcahy): I am not aware of the allegations and have had no representations on the matter from any person, nor any statement of the alleged facts. I am having inquiry made with a view to ascertaining to what extent, if any, any soldier on the occasion in question exceeded his duty. The troops are acting with tact and discretion in their very difficult task in Waterford. In view of the serious nature, and the possible inflammatory tendency of such suggestions as are contained in the question, I regret the Deputy should make a question in this particular form take the place of representations to me in some other way.

CATHAL O'SHANNON: Will the Minister inform Deputy O'Brien of the result of the inquiry?

General MULCAHY: Certainly.

CATHAL O'SHANNON: When will it be likely that you can so inform him?

General MULCAHY: I cannot say. In the meantime it would help very much in making inquiries into these matters, if we could have plain statements of facts.

CATHAL O'SHANNON: May I ask the Minister if the evidence at the inquiry will be purely military or military and civilian?

General MULCAHY: It is alleged that a certain non-commissioned officer and certain men were at O'Carroll's Cross at this particular time. A question is put suggesting that a certain incident took place. I am going to take, from whatever soldiers were present at the time, statements of what occurrence took place. That is the extent to which I am going to make inquiry in the present matter.

CATHAL O'SHANNON: Am I to take it that the Minister will not accept civilian evidence—evidence from people present who witnessed the incident?

General MULCAHY: If the Deputy will read the question he will probably consider that I am doing what is simply the natural and proper thing to do from my point of view, when a suggestion like this is made in this particular form.

CATHAL O'SHANNON: I am precluded by the Standing Orders from expressing an opinion on that statement, but I will repeat my supplementary question. Will or will not the Minister allow civilian evidence to be tendered at the inquiry?

General MULCAHY: I am not going to approach civilians in the matter. A certain allegation has been made with regard to the action of certain soldiers. They are not even allegations. I am going to make an inquiry of the Army officials who were present at the time, as to what exactly took place. If, as a result of these inquiries, any further action on my part is necessary, that action will be taken. As a preliminary step, that is the action I am going to take.

RELEASE OF INTERNEES.

AODH O CULACHAIN asked the Minister for Defence if he is aware that John Ryan, Martin Simpson, and Patrick Connor, of Athy District, are interned in Carlow Prison; whether he gave orders to have these men released about three months ago, and why they are still detained; further, whether these men have signed the form of undertaking a month ago, and to ask, as no charge has been made against them, that they be immediately released.

General MULCAHY: Orders were not given for the release of these men about three months ago. As regards Simpson I would refer the Deputy to my reply to his question on the 19th June. The cases against these men have been under consideration recently and they were released on the 30th June.

STAMPING OF INSURANCE CARDS.

RISTEARD MAC FHEORAIS asked the Minister for Defence if he has received repeated complaints on behalf of Patrick Kelly (Civilian), of Keeper's Lane, Wexford, to the effect, that for the period of nine months during which he

worked for the 11st Battalion of the National Army at Wexford Barracks, his Insurance Cards were not stamped, with the result that since his discharge (about two months ago) he has not been eligible for Unemployment Benefit.

General MULCAHY: I have received several letters from the Deputy. I understand that Kelly was employed as a civilian mess servant which, it appears, is not an insurable occupation under the Unemployment Insurance Acts, and that, therefore, contributions were not payable in respect of him. As regards National Health Insurance I am arranging that the matter will be attended to at once.

ORANMORE (GALWAY) ARREST.

TOMAS O CONAILL asked the Minister for Defence (a) whether he is aware that John Joyce, a boy of 17½ years of age, of Gurrane, Oranmore, was arrested on the 10th March, while visiting his uncle's house at Castlegar; that he was imprisoned in Galway and afterwards removed to the Curragh; that he has signed the usual undertaking, and has secured two securities; and will the Minister, in the circumstances, have this boy released; (b) further, to ask the Minister whether William Shaughnessy was arrested on the 21st February, at Lackagh, Turloughmore, Galway, detained at Galway Jail, and afterwards removed to the Curragh; whether he has signed the usual undertaking, and got two sureties; and will the Minister say whether, in the circumstances, Shaughnessy will be released.

General MULCAHY: Joyce was released on the 25th June, and Shaughnessy on the 29th June.

COMPENSATION FOR MOTOR CAR.

TOMAS O CONAILL asked the Minister for Defence if he will state whether compensation has yet been paid to Mrs. M. Cassidy, of Main Street, Castlerea, on account of a motor car which was taken by the National troops on 21st July, 1922; and, if not, can he explain the great delay in dealing with this claim.

General MULCAHY: Compensation has not yet been paid to Mrs. Cassidy. Her claim is receiving attention. Its consideration has necessarily been delayed pending the handing back of the car and the receipt of a report on its condition when returned.

A CASTLEBAR PRISONER.

TOMAS O CONAILL asked the Minister for Defence whether he is aware that Michael Sweeney, of Ballyvary, Castlebar, has been arrested, and is still detained in Galway Jail; whether any charges have been proffered against him; and if it is the intention to release him on the usual conditions.

Gen. MULCAHY: Michael Sweeney was arrested on suspicion of looting. He has not been formally charged. He has signed the usual form of undertaking, and the question of his release is being considered.

A CO. MAYO ARMY CREDITOR.

TOMAS O CONAILL asked the Minister for Defence if he is aware that a sum of, approximately, £50 is due to Mrs. Stack, of Bellindine, Co. Mayo, for repairs to a motor car; that the bills and accounts have been repeatedly submitted to the military authorities, after being duly vouched; that the firm who executed the repairs is threatening Mrs. Stack with legal proceedings; and will he see that in order to prevent such proceedings payment of the account is expedited.

General MULCAHY: The settlement of Mrs. Stack's account is being expedited.

A MOUNTJOY PRISONER.

RISTEARD MAC LIAM asked the Minister for Defence if he is aware that Thomas Donohoe (farmer's son and the only help of his father, now 95 years of age) has been incarcerated in Mountjoy Prison since 11th March last; and whether, in view of the fact that he signed the undertaking required by the authorities and produced the necessary bails as to his future conduct long since, the Minister can now see his way to release him.

General MULCAHY: Guarantees of Donohoe's good faith in signing the usual form of undertaking have been received from persons whose assurances are not acceptable to the Army authorities. In the circumstances it is not considered advisable to release Donohoe at present.

UNPAID ARMY ACCOUNTS.

TOMAS O CONAILL asked the Minister for Defence if he can explain the delay in having the accounts of the following traders in Woodford, Co. Gal-

way, settled, viz.—James M'Mahon, butcher (amount due, approximately, £90); Raymond Hennessy, general provision dealer (amount due £135); Michael M'Carthy, general merchant (amount due £20); and whether, in view of the fact that these accounts are now several months overdue, he will take steps to have payment expedited.

General MULCAHY: Enquiries are being made. The settlement of any outstanding accounts will be expedited.

A BALLINA PRISONER.

TOMAS O CONAILL asked the Minister for Defence if he is aware that Mr. H. Kevany, Chairman of the Ballina Rural District Council, was arrested at a meeting of the Council held on 12th March last and that he has since been detained in Galway Jail; if he can state what are the reasons for Mr. Kevany's arrest, and whether it is proposed to formulate definite charges against him and put him on trial; or, alternatively, to have him released.

General MULCAHY: Mr. Kevany was arrested on suspicion of aiding and abetting the Irregulars. He has refused to sign the usual form of undertaking. It is not intended to formulate a definite charge against him, and it is not considered advisable to release him at present.

[WRITTEN ANSWERS.]**CATTLE SEIZURES (WESTMEATH)**

SEAN O LAIDHIN asked the Minister for Defence whether he is aware that eight cattle, three of which were the property of James Malynn, three of Michael Brennan, and two of Joseph McGrath, were seized by National forces from the lands of Mr. Matt. Farrell, Ballymore, Westmeath; whether Mr. Farrell rented these lands to the above-mentioned persons for grazing purposes. Further, to ask whether the cattle in question have been sold, and, if so, will these men be compensated, or, if not sold, will the Minister see they are returned.

General MULCAHY: The cattle referred to in the question were seized by troops, as they were trespassing on lands which have been seized illegally by Mr. Farrell.

About two years ago Mr. Farrell forcibly took possession of these lands. His claim was subsequently adjudicated upon by a District Court in April, 1922, and was rejected. Mr. Farrell's appeal to the Circuit Court was dismissed with costs in June, 1922, and an ejectment decree was executed on Mr. Farrell in August, 1922. Mr. Farrell immediately resumed forcible possession of the lands and retained possession until the lands were again cleared by the military authorities on the 9th ult. There can be no doubt but that Messrs. Malynn, Brennan and McGrath were aware that they could acquire no legal grazing rights on the lands in question from Mr. O'Farrell, and that they were grazing the lands illegally.

The proceeds of the sale of the seized stock will be retained by the military authorities pending a decision by the Dáil on the general question.

QUESTION ON ADJOURNMENT.

SANITARY CONDITIONS OF JAILS AND BARRACKS.

Mr. EVERETT: I desire to give notice that I will raise on the adjournment the question of the sanitary conditions of jails and barracks in which prisoners are detained.

THE PREVENTION OF ELECTORAL ABUSES BILL, 1923.— SECOND STAGE.

Mr. BLYTHE: The Prevention of Electoral Abuses Bill of which I now move the Second Reading codifies the existing law with certain alterations and changes in relation to the prevention of corrupt practices. In the law as it stands at present are embodied sections of quite a number of Acts, such as the Representation of the People Act, 1850, the Corrupt Practices Act, 1854, the Ballot Act, 1872, the Corrupt and Illegal Practices Prevention Act, 1883, the Parliamentary Election Corrupt Practices Act, 1885, the Corrupt and Illegal Practices Prevention Act, 1895, and the Representation of the People Act, 1918. Besides codifying the law, certain changes that the experiences we have had in this country have shown to be necessary, are being made. There are new penalties for personation and new powers are given for arrest, and for other steps for the prevention of personation. Heretofore a police officer could only

take a person in charge for personation if he were directed to do so by the Presiding Officer. Under this Bill it is proposed to give him power to act in the same way as he would in the case of any other offence against the law being committed. It is proposed, therefore, to indemnify the Returning Officer and policeman in case he acts without malice. Of course if there is malice proven, or if there is anything else wrong in that way the indemnity would not hold. The matter of personation has been regarded as almost a sort of legitimate practice in the past. Both sides have caused men personating to be arrested, and then there was a sort of exchange of prisoners at the end of the day, and the offenders on both sides were released. The thing continued in that way, and at the next election these people probably felt there was no danger in impersonating and they were quite ready to do it. Personation has become a habit, and it is a matter that it is very necessary to take such steps as we can to put an end to it. We also propose to provide that the offence of personation can be dealt with summarily. It is one of the things for which it is very difficult to secure a conviction if tried before a jury, and it would be more difficult if during the next few months people were brought before juries on charges of personation. There will be certainly a great likelihood that in any jury that might be empannelled there will be somebody who had been guilty of the practice himself. We feel it is even more important to have a certainty of conviction if there is evidence given that proves the case and that there should be a conviction rather than that the punishment should be very severe. If a man gets five or six months imprisonment it will serve to deter him quite as well from practising offences of this sort as if he got a much longer term. It is a matter in which people should feel that the risk of being detected and punished for it is very considerable. We have had to make provision in this Bill for the carrying out of a Referendum. It might be argued that there is no need for personating agents at a Referendum. I think in very many countries where the institution of the Referendum exists there is nothing in the way of personating agents appointed, but in view of recent practices we feel that some provision should be

[Mr. Blythe.]

made that would allow machinery to be set up to detect and prevent personation. No sort of State machinery can be set up. If you take your Presiding Officer he will not do anything, ordinarily speaking, to prevent personation. The Presiding Officer is a man from the locality generally; he is paid a certain fee for acting for the day. He is not going to do anything in the ordinary way that will incur odium if he can avoid doing it, and any amount of personation might go on, and the Presiding Officer might certainly take no steps to stop it. He would allow it to go on. You cannot appoint from the State personating agents either, because you would be in the same difficulty. A man employed in four years for a day is not going, for the sake of the fee he gets or the hope of being employed again, to offend his neighbour or to take any strong action.

If agents were appointed and paid by the State the money would be spent without result. We have provided machinery in this Bill which we think will enable political parties to be brought into action. There can be appointed, if a Referendum is demanded, a man who will challenge the Bill. He will have power to get personating agents to attend in the booths and to stop people who are endeavouring to personate. On the other hand, if the Bill is passed—as it must be passed by the Dáil before there is a Referendum—there can be appointed somebody who will act as sponsor, who will appoint somebody as agent in each county who will have power to send people to act in the booths in case personation is attempted. The machinery is not perfect, but it seems the best that can be devised. This work that may be done by political parties in furtherance of their own politics, with a view either to have the Bill carried or defeated, seems to be the best that can be accomplished. It certainly does seem necessary, in view of the extent to which personation has been carried on in recent years.

Certain other changes have been made. For instance, in the past, it was illegal to hire cars for elections. Of course, cars were continually hired and the prohibition was rather in the nature of a farce. Then it was illegal to make payments for bands, ribbons, etc. It does not seem that there is any real objection to spend-

ing money on them, and in any case money was always spent in that way. We have withdrawn the limit of expenditure that a candidate may incur. It was very difficult to fix upon a limit that would be suitable in the present circumstances, with Proportional Representation. The limit which might be reasonable in a three-member constituency might be inadequate in a nine-member constituency, where there would be a large number of booths scattered all over the constituency. On the other hand, if you allowed the sum that would be reasonable for a nine-member constituency, it would be too much for a candidate who would seek support in a more restricted area. There is also the fact that the law was entirely ignored in this matter. The agents habitually made returns showing an expenditure of a few hundred pounds, whereas, the expenditure really amounted to £1,400, or £1,500. It seems to me to be better simply to insist on a return being made and to hope that in the future we shall have accurate returns—a thing that was not done in the past. In that way we could come down on people who expended money in a way that was forbidden in the Act, and we would not trouble at all so much about the entire amount of money spent. It is doubtful whether expenditure on the part of any candidate would be likely to influence the result in the same way that it might have done in the past, when there was a straight fight between two candidates. Those are matters that are new and that are capable of being improved.

There is not much new in principle in the Bill. It is mainly a codification of the existing law. The changes are chiefly changes of detail, and it seems to me that a good deal of attention might be given to the consideration of the clauses in Committee, but as the general principle of the Bill is one about which there cannot be a great deal of difference of opinion, I move the Second Reading of the Bill.

MINISTER for EDUCATION (Prof. MacNeill): I second the motion.

Mr. JOHNSON: I think the whole membership will be glad to support the Second Reading of this Bill. We have all expressed our views as to the necessity for some strengthening of the law, especially in regard to personation, and a few other practices. I think it is, therefore, not necessary to go into any con-

siderable discussion on it at this stage. I desire to raise one small point that may be of importance or of no importance. The short title of the Bill is "The Prevention of Electoral Abuses Bill, 1923." The long title of the Bill deals with corrupt practices and illegal practices, and makes provision for "the prevention of such practices and abuses at elections to Seanad Éireann, and at a Referendum and for other purposes connected therewith." Presumably, that means connected with "abuses." I raise the point whether Section 50 is strictly within the title, and if it is not whether we should not amend the title so that there may be no ruling out of order later.

Mr. DARRELL FIGGIS: This is a Bill on which there will be general agreement in the Dáil. One might go further and say that there will be general agreement in other places, even amongst those who might in the past have been professionally or otherwise responsible for a good deal of the electoral guile that this Bill is intended to counteract. The purpose of such a Bill must necessarily enlist general support. I remember being very deeply impressed at the last election by the statement of a foreigner at present in this country who happened to have witnessed a good deal of the wholesale impersonation that then took place. He was a Scandanavian, and he stated to me impressively, because of his ingenuousness in the matter, that in Scandanavia, whether in Norway or Sweden, any person guilty of impersonation would be regarded and treated as a criminal. Of course, such persons are criminals—they are not merely lying, they are robbing. They are robbing other people of what is their essential property, as citizens. The Minister in proposing this Bill justly stated that it was not, in fact, more than a consolidation of previous enactments in the matter, with certain slight amendments.

Without expressing any general disagreement with the Bill, or with that procedure, I would like to say that I would have liked to have thought that this Bill could have been so drafted as not merely to penalise offences which it does do, and adequately and satisfactorily does, but if possible to do what is admittedly a much more difficult thing to attempt to do, and that is to obviate some of those abuses. I think it would be admitted that any attempt to obviate

abuses of this kind would be very difficult, but it would have been worth the attempt. It has been attempted in other countries with a great deal of success. Let me touch upon the single case of impersonation, a great evil which it is necessary to penalise and obviate if it is possible to obviate it. In other countries it has been found possible that a voter shall bring with him his attestation as a voter. Now, I know that is a very difficult thing to do. It has been done in several countries. Methods have been outlined by which it can be done in Ireland. I think it is not impossible to do it, and I suggest it would be worth while to get the voter when he comes to register his vote, to hand in some form of certificate which would be a proof that he or she was the person so certified on the register. That, however, has not been done.

One other omission I desire to draw attention to, which, I hope, it will be possible to obviate in the Committee Stage, but which it is right to refer to in this stage, because I think it is a very glaring omission. Inasmuch as it would be very difficult for any private Deputy to deal with the matter adequately by an amendment in Committee Stage, because of the lack of machinery, I suggest to the Minister that he might think over the question of intimidation in the meantime. Intimidation is not dealt with in this Bill. Intimidation has very markedly occurred not only in one election, but in several elections. I would like to have, in any prevention of Electoral Abuses Bill passed by this Dáil, a definition with a very stringent penalty that any person even professing to interfere with the normal course of an election should be held open to some penalty of a drastic kind, and that the parading of arms or of any weapons whatever during the course of an election should be penalised in a similar fashion.

Having studied the procedure adopted for the taking of referendums in other countries I am slightly surprised at Section 23, and the adoption of a definite sponsor and a definite challenger. It is undoubtedly a very carefully thought out matter in the Bill, and may be regarded at this Second Reading as a principle of the Bill, but I do not know that a procedure of this kind is adopted for referendums in other countries, and I am not sure that the principle is the right

[Mr. Darrell Figgis.]
 one. I think it would be very much better to leave the matter to the elector acting by referendum without bringing the question of personalities in at all. The Minister will perceive instantly what I am referring to. If you are going to get a challenger put down by name, and a sponsor put down by name under any motion carried by referendum, the question underlying that referendum will undoubtedly be tied up with the merits and demerits of the personal qualities of the sponsor. That is inevitable, and is a thing that is highly desirable to avoid. In other countries the question is put down so that it will be possible for an elector exercising the referendum to record his opinion, *yea* or *no*, in respect of a particular measure, having taken his or her conclusion on that matter without a very clear recognition of who might be the sponsor, or who might be the challenger. If it be possible to remove the question of those personalities it is very desirable that it should be done. It is a case of procedure, and I think what has been done in the Bill in this regard is not the very best that could have been done.

Certainly I am bound to say that so far as I am concerned, I regard it with a considerable amount of apprehension. I hope it is not the case that the procedure of the Referendum will be made any more cumbersome than it need be. It is unnecessarily cumbersome. It is adopted in all Constitutions, and in all Constitutions it is not confused with any question of who might be in favour of the Bill or who might be against it. There are two other omissions to which I wish to draw the attention of the Minister. The first is: Has it been decided that the returning officer or the presiding officer, whoever he may be, shall not be absolved from responsibility if, considering all the circumstances, he were to regard it as his duty, but without any advice from the personation agent, to cause an arrest for personation? I know a case that occurred at the last election in the constituency which I represent, County Dublin. I drew the attention of the Presiding Officer to the fact that personation was occurring on a very large scale, and he replied that he knew it was occurring on a very large scale, that within his knowledge three persons had on that morning come forward, purport-

ing to represent certain persons, and he knew personally they were not those persons. I asked him why he did not cause their arrest, and he said: "Because I might be mulcted in certain fines." Now, I think that a presiding officer or a returning officer should be empowered to cause the arrest of any people for personation, and if he can show in any subsequent action that he acted on the reasonable belief that personation was occurring, he should be absolved from all penalty. I want to refer to Section 26, Sub-section (2), which seems to argue against the case that I have been making. It says: "No action or other proceeding, civil or criminal, shall lie against any Returning Officer or Presiding Officer in respect of the arrest by his direction without malice of any person on a charge of having committed the offence of personation." If I read that Sub-section correctly, I believe it is open to this interpretation, no presiding officer so acting would be supposed to have acted except under the first Sub-section of that Section, by which he is motivated, if I may use the word, by the personation agent in question. That is a matter of small change in wording, but it does incorporate a principle. The Minister can cause the wording to be so changed that the presiding officer need not act on any motive furnished other than his own reasonable presumption.

The last matter is with regard to registration. As I read this Bill, I have not found in it any reference to wrongful registration, which is one of the gravest evils in connection with elections. I know a constituency in which it was claimed, and rightly claimed, that at the last election six thousand persons who did not exist were registered. We know there are a number of persons who are supposed to have died and who vote. That occurs, but this is even more remarkable. Six thousand persons were registered who had never lived, and that has become a very considerable art in this country, the registration of persons who are fictitious but who, nevertheless, are very potent. I would like the Minister to state that he will regard unlawful registration of that kind as an offence to be punished in exactly the same manner as impersonation.

Mr. DAVIN: I think there is very little to be said about this Bill, except that it will be generally welcomed by

everybody who wishes to see purity in the public administration or common decency in public life. It would be possible, under the different clauses of the Bill, to deal with people who are not prepared to accept that. I think that a Bill of this kind is equally desirable in the case of Local Government elections, and one cannot fail to notice that the title of this Bill only makes it applicable to elections for the Dáil. I would like to know from the Minister whether or not he intends to introduce a Bill of a similar kind to be applied to the Local Government elections which, we are now informed, will follow immediately after the elections for the next Dáil.

Mr. BLYTHE: I have noted the point that Deputy Johnson made as to whether Section 50 comes within the Title or not. I see that it is somewhat doubtful, because the removal of the limit for expenditure seems to me to help to take away the connection with the free postage as with the matter of electoral abuses. I will look into that matter. The object of course is to obviate abuse by personation. That is not so very easily done. We have taken certain steps as well as the proposal of penalties to obviate that. The most important of these has been the increase in the number of polling booths and having smaller compact areas around each polling booth so that a personating agent will have a good chance of knowing everybody in that area, and so preventing people wrongfully voting. The question of the identity card was considered by the Committee which was set up pursuant to a Resolution of the Dáil, and they reported against it. If in this country for police purposes everyone had to carry an identity card it would be easy to use that card for preventing personation, but when people have not cards we would find perhaps when we come to an election that only a small proportion of the electorate would be equipped with their cards and we would defeat the idea of the Constitution, and I think we would be going altogether along wrong lines. The ordinary bulk of the people, even if they did not interest themselves very greatly in politics, have as much title to take part in the election of representatives as the organised active bodies who, perhaps, have their own particular interests more in view than the inert mass of the people. Then

if we have not a very elaborate form of identity card it has been felt that the abuse would be rather increased than diminished. A simple form of card might be traded and might be bought and sold for the purpose of making personation simple and safe. Intimidation is dealt with in the Bill; it is one of the forms of undue influence. Section 5 says "Every person who shall, directly or indirectly, by himself or any other person on his behalf, make use of or threaten to make use of any force, violence, or restraint" and so forth. I think those words cover intimidation quite sufficiently. One cannot look at any Bill that may be referred to a Referendum simply by itself. No matter what we do, regard will be had to the people who proposed it and to the people who opposed it. I do not think that the appointment of an individual to take charge of the organisation and the machinery to prevent personation either for or against a Bill is likely to prevent the electors dealing with the Bill on its merits any more than the debates that would have gone on in the Dáil or Seanad would so prevent them. I do not think there is really very much substance in that. It certainly was intended that the Returning Officer should be absolved from responsibility if he acted *bona fide* and without malice, in ordering the arrest of any person whom he found engaged in personation.

Mr. DARRELL FIGGIS: May I mention that my point was not that he should act but that when he acted on his own motion.

Mr. BLYTHE: I meant that. With regard to wrongful registration, there are penalties in the Bill. Furthermore, a vote in the name of a fictitious person is personation, the same as voting for some living person, so that the people who cause wrongful registration can be punished, and people who vote under fictitious names can be punished in accordance with the provisions of this Bill. I would really like to know the constituency where there were so many as six thousand fictitious names.

Mr. JOHNSON: Would you stand for it?

Mr. BLYTHE: It would be a very good idea. Perhaps Deputy Figgis would stand for it. We intend to bring in a Bill dealing with Local Government

[Mr. Blythe.]

elections, and the question of Local Government franchise, which has not yet been dealt with will be the subject of a separate Bill.

Question put: "That the Bill be now read a second time."

Agreed.

Committee Stage ordered for Thursday week.

COMMITTEE ON FINANCE.—THE LAND BILL.

MONEY RESOLUTION BY THE MINISTER FOR FINANCE.

The PRESIDENT: The formal notification has come from the Governor-General, and I move:—

Chun forálacha aon Achta a rithfar sa tSiosón so chun leasuithe na dlí a bhaineann le sealbhúocht agus únaereacht talmhan do chó-líona, go bhfuil sé oiriúnach:—

(a) a údarú go ndéanfar roimh-foc sealadach as an bPrímh-Chiste in aon tsuini is gá chun aon easnamh ar Chiste na mBannaí Talmhan do dhéanamh suas agus chun ús Bhannaí Talmhan d'foc agus chun suimeanna d'foc is gá chun Bannaí Talmhan d'fhuascailt;

(b) a údarú go n-íocfar as airgead a sholáthróidh an tOireachtas suim is leor chun an t-ús d'foc ar Bhannaí a tabharfar amach chun go n-íofaídh an Stát cuid den phraigheas agus i gcóir Ciste na gCostaisí;

(c) a údarú go roimh-focfar as airgead a sholáthróidh an tOireachtas suimeanna a chaithfídh Coimisiún na Talmhan le hath-dhéanamh aon bhealaigh uisce, dréin, puirt no oibre eile, no le cuid den ath-dhéanamh san;

(d) a údarú go n-íocfar as airgead a sholáthróidh an tOireachtas suimeanna is gá do Choimisiún na Talmhan chun a chomhachtanna féin Acht san d'fheidhmiú no chun éinní eile do dhéanamh chun an tAcht san do chur in éifeacht maraon le suimeanna is gá chun luach saothair do thabhairt d'aon ghníomhaire talmhan, Aturnae no cléireach talmhan mar gheall ar dhualgaí do chó-líona thar ceann únaera aon talmhan i dtaobh forálacha an Achta san;

(e) a údarú go n-aistrefar, chun ainm an Aire Airgid chó maith le hainm an oifigigh sin do Choláiste na Tríonóide, Baile Átha Cliath, a ainmneoidh colucht rialúcháin an Choláiste, chun úsáide an Choláiste, an ciste atá i gcimeád ag an Iontaobhaí Puibh fé Alt 39 den Acht Talmhan Fireannach, 1903, agus go n-íocfar deontas trí mhíle punt sa bhliain leis an gColáiste as airgead a sholáthróidh an tOireachtas.

That, for carrying out the provisions of any Act of the present Session to amend the law relating to the occupation and ownership of land, it is expedient:—

(a) to authorise the temporary advance out of the Central Fund of any sum that may be required for making good any deficiency in the Land Bond Fund for the payment of interest on Land Bonds and for the payment of sums required for the redemption of Land Bonds;

(b) to authorise the payment out of moneys provided by the Oireachtas of a sum sufficient to pay the interest on Bonds raised for contribution by the State to the price and for the Costs Fund;

(c) to authorise the advance out of moneys provided by the Oireachtas of sums to be expended by the Land Commission in or towards the reconstruction of any watercourse, drain, embankment, or other work;

(d) to authorise the payment out of moneys provided by the Oireachtas of sums required by the Land Commission for exercising its powers under such Act, or otherwise for carrying such Act into effect, including sums required for the remuneration of any land agent, solicitor, or land clerk, in respect of duties performed on behalf of an owner of any land in relation to the provisions of such Act;

(e) to authorise the transfer into the joint names of the Minister for Finance and such officer of Trinity College, Dublin, as may be designated by the governing body of the College, for the use of the College, of the funds held by the Public Trustee under Section 39 of the Irish Land Act, 1903, and the payment to the College out of moneys provided by the Oireachtas of an annual grant of three thousand pounds.

The first four clauses of this resolution concern matters which are already familiar to Deputies from the text of the Bill as printed, and from the explanations which have been given in the Dáil. The clauses indicate the specific charges on Public Funds to which the general provisions of the Bill may give rise.

Clause (a) covers the provision which will be found in Sub-section (5) of Section 1 of the Bill. The advance which may be made under this clause from the Central Fund to the Land Bond Fund will arise only in the event of the Guarantee Fund being insufficient to meet the demands upon it. Any advance so made would be subsequently recoverable from the Guarantee Fund, so that ultimately the provision would entail no charge on the Central Fund. The provision is, however, important as affording the best security that the State can offer to the holders of Land Bonds.

Clause (b) is intended to cover the provision which will be found in Sub-section (7) of Section 10 of the Bill.

Clause (c) relates to the expenditure for which provision is made in Sub-section (5) of Section 37 of the Bill.

Clause (d) covers the general provision made in Section 58 of the Bill for enabling the Land Commission to have the necessary Funds for carrying the Act into effect, and it also covers the minor provision appearing in Sub-section (7) of Section 34 of the Bill of which any Land Agent, Solicitor, or Land Clerk, who performs duties on behalf of the owner of any land will be remunerated out of Public Funds as may be directed by the Land Commission with the assent of the Minister for Finance.

Clause (e) of the Money Resolution is new and Deputies will no doubt desire that I should explain it at somewhat more length. It will be remembered that when the Land Act of 1903 was being passed a special provision was inserted for the purpose of safeguarding Trinity College, Dublin, from the hardship which it was apprehended the College would suffer through having superior interest in land belonging to it redeemed on terms which would involve a loss of income to the college. It was felt at the time that it would not be proper that an educational institution should be allowed to suffer in this manner by reason of the adoption of the scheme of Land Purchase, and,

accordingly the Act provided that a sum of £5,000 should be paid every year by the Government to the Public Trustee so that he might make use of this money in order to indemnify the college against such loss of income.

Payments under this arrangement have been made annually to Trinity College since 1903. The greater part of the money provided was, however, not required for this purpose, and a considerable balance has accordingly accumulated in the hands of the Public Trustee.

The college have for some time been bringing to the notice of the Government the general needs of the institution for further financial assistance, and also the possibility of their existing resources being impaired by the further steps which are being taken under existing Acts, and which are proposed to be taken under the present Bill for the completion of Land Purchase. In this connection the College have also pointed out that before the Treaty the British Government had endeavoured to provide that the college should be given additional financial assistance to the extent of an annual State grant of £30,000. This whole question has been very fully examined for some time past on the part of the Government and it has now been possible, subject to the approval of the Dáil, to obtain an agreement with Trinity College on the lines indicated generally by Clause (e) of this resolution. In consideration of the terms here indicated the college have formally undertaken that they will not approach the Government for financial assistance for at least a further three years, and, of course, no assurance is given on behalf of the State that an application even after that time can be entertained. It is part of the settlement that the college waives any further claim to indemnity in respect of the future operations of Land Purchase.

I should mention that the Ministry of Finance has agreed to put to the Dáil as part of this arrangement that a sum of £5,000 out of the University Vote should be devoted to the College also. Last year the sum so allocated amounted to £6,000, and in the previous year Trinity College received, I think, £12,000 from the British Government. I accordingly move the Resolution.

Mr. JOHNSON: I beg to move the deletion of paragraph (b) from this Resolution.

[Mr. Johnson.]

tion. I take it the proposals of the Bill, of which this Resolution is an essential preliminary, are divided into two parts, one of which is the transfer to the Land Commission, that is to the State, of rentals, as the Minister for Agriculture pointed out in his speech on the introduction of the Bill, and the giving of legal power to draw rent for certain lands. Those powers having been transferred to the State, then the process of re-transfer to the tenants, or to such other persons as may be agreed to, takes place, with the abrogation of the right to draw rentals. I take it, in agreeing to decide to bring in this Bill for the compulsory transfer from the present landlords of tenanted land, that the Government intends the Bill to provide for the payment, to these present landlords, of a certain sum as compensation for the compulsory abrogation by the State of a right which, for many years, has been exercised with the consent of the State. The State gave and the State will take away. The Bill provides for certain compensations for the landlords from whom this power to extract rent is being taken, and it is a fair question to ask, what is the basis on which the compensation is to be calculated? That brings me to the second, or correlative, part of the Bill. An inquiry is to be made, and it is assumed that the tenants will be able to pay for a certain number of years a certain sum of money annually. That is to be the basis of the compensation to be paid to the landlord. I want to know, therefore, why anything additional should be paid to the landlords? The right to extract rent which is being cancelled under this Bill is a right which was given by the State. The rental which they have been authorised to extract and to collect, has been fixed, in most cases, by Judicial Courts, and the State in its wisdom, at least the Minister in his wisdom, has put forward in the Bill a certain suggestion as to what is a reasonable charge to levy upon the future tenants. Now, presumably, that charge which is for a period of years, is to be levied on the future owner, the present tenant, and has been arrived at on some basis of reason. It is presumed to be what the tenant in the ordinary course of operations will be able to pay. I assert that it is a guess, that a rental of this

kind, fixed in the way that is provided, is simply a leap in the dark, and is to be either a charge upon the tenant, the future owner, or upon the agricultural community, or upon the consuming public in favour of those persons who have in the past had a legal sanction to extract rent. It is not based upon any knowledge of what the future will be. You cannot predict the course of prices, you cannot predict the course of nature, or future harvests. You simply assume that the harvests, given good culture, will produce at least as much as in the past, and chance the question of prices. Having decided, as a matter of convenience, that the price to be charged the tenant towards the purchase shall be so and so, the proposal in this Motion is that there shall be added to that which the Minister and the State consider a fair charge upon the occupier—the man who does the work on the land—a sum, at the expense of the average taxpayer and the common fund, in the interest and for the benefit of the present land owner. It seems to me if the demand of the tenants for purchase is being fairly met and that the tenants agree to pay a price, that that is the sum and no more which ought to be paid to the present landlords. I do not see the justice nor the equity in calling upon the general taxpayer to hand over to the landlords this sum of 10% on the purchase money with an additional 2% for the costs fund. Whatever is a fair price to charge the tenants that is the fair price to pay the landlords. If it is a fair price to charge the tenants anything more than that is an unfair price to charge upon the common Exchequer, and is unfair to the community, for the benefit of the present land owners. If the argument were to run that the price that is fixed for the transfer of this right to extract rent for the landlord is the price fixed in the Bill, and if that is a fair price to pay the landlord, then that is a fair price to charge the tenant. I think the proposal in the Bill to ask the common taxpayer to pay the extra 10 per cent. is not justified by the facts. Inasmuch as the Minister has fixed the sum of money which for a period of 60 or 70 years will mean an annual charge upon the produce of the land, if that is a fair price, then again I say that is the price that ought to be paid to the landlord on

the basis of the Bill that has been presented to us. That, in short, is the reason I have put forward for the deletion of paragraph (b) of this Resolution. I think no case has been made in favour of imposing this charge upon the taxpayer, and taking the figures that have been quoted, it will run to something over £100,000 a year, and in a few years considerably over that as a matter of fact. I do not know whether the Minister for Finance can promise that that amount is likely to be available to hand over as a gratuity to the landlords. I agree with Deputy Gorey in his interjection some time ago that this 10 per cent. was in strict truth a bonus to the landlord rather than an assistance to the tenant. I am sure the Bill will be greatly improved by the deletion of the clauses which are foreshadowed in this paragraph of the Resolution, and I propose to ask the Dáil to support its deletion.

MINISTER for AGRICULTURE

(Mr. Hogan): I am quite willing to admit that Deputy Johnson has put the case against the 10 per cent. very fairly. At the outset in order to avoid misunderstandings we will have to christen certain things in the Bill. The Bill itself refers to the purchase money that the vendor is getting as the price. Let us take this old case of £100 rent. £1,505 is the landlord's money. That is called the price. £65 capitalised at 4½ per cent. is £1,368. That is called the standard price in the Bill. The price is the standard price plus the addition of 10 per cent. I merely want to have the names quite clear, so that we will not be at cross purposes when we are referring to the price and the standard price. The standard price is the tenant's annuity capitalised. The price is the standard price plus 10 per cent. Deputy Johnson stated the case in one sentence. He said if the money for which the tenant is making himself responsible is a fair price, then that should be paid to the landlord and no more. But if the money which under the Bill the landlord is actually getting is the fair price, then that is the price which should be paid and that is the price the tenant should make himself responsible for.

I think that is fairly stating what he said on the question. There is a lot to be said for that point of view. I will be equally frank with Deputy Johnson, and

I will say that if this were a new problem, or even a problem which had come into existence within the last five or six years, if it were not, in fact, a very old and very embittered problem, and a problem around which a great number of vested interests have grown up, and if, in addition, the European war, which has upset the money market all over the world, had never taken place, then I would say, and I have no hesitation in saying it, that the tenant should pay the full price that the landlord is getting. But we are back to the old difficulties that even a new Parliament, after a very short time, begins to find itself up against—we cannot legislate in a vacuum. This is a very old problem. It is the historic Irish economic question. It was our only economic question for the last 30, 40, or 50 years, and, of course, it is even much older than that. A great number of vested interests have grown up around it. It is a sort of common consent in the country that different considerations should apply to the land question than to any other economic question. That is the fact that is well fixed in people's minds. It is well fixed in the tenants' minds. The small farmer, or his son, who lives in the country thinks—and it has been taught to him—that he has some better title to the land that adjoins his boundary fence and which happens to belong to a landowner than, let us say, the workman in the docks, who sees the ships of some big shipping company coming in every week, thinks in regard to these ships. The workman in Dublin never dreams of going to the State and asking for the loan of money in order to get a share in some ship that comes into the docks. It is altogether different. There is a totally different atmosphere, a totally different point of view. These are the expediences—

Mr. O'CONNELL: Thanks for the hint.

Mr. HOGAN: We have got to recognise that. It may be illogical, it may not square with Deputy Johnson's rigid notions of economics, but the facts are there, and we have got to face them. We cannot afford to legislate in a vacuum. Deputy Johnson states that in his opinion this price is a guess. I hope I have made it clear that I do not agree with him, either that the price which the tenant is making himself responsible for is the

[Mr. Hogan.]

fair price, or that the price which the landlord is receiving should be paid by the tenant, and I have given my reasons. I will examine these reasons in a minute. I come to the point now which he makes, namely, that this price is a pure guess. That is not very helpful. If the Deputy would give us his idea in figures of what the price should be and give his reasons—

Mr. JOHNSON: I will.

Mr. HOGAN: I suppose he will, at a later date—and give his reasons, then we could put one figure against the other and we could decide which of us was guessing. But I have not that advantage. The Deputy has not yet given the figures, but I daresay we shall receive them when we come to the price Sections of the Bill. For the moment I simply reiterate the statements which I made on the First and Second Reading in regard to this particular question.

We fixed this price to the landlord on its merits, and on the merits of the question itself. We fixed it in view of the fact that we cannot afford to acquire property compulsorily and to pay a price for it which would be less than its price to a Banking Institution, especially having regard to the fact that the particular property with which we are dealing was a favourite investment for Banking Institutions, Insurance Companies, Charitable Institutions and private individuals here, in England, and in America. That is a matter of fact. It simply does not admit of doubt, not for one moment; that was partly because the price or value of property itself had been, since 1881, regulated by the Land Courts. That was a very important matter from the investor's point of view. From the point of view of the Bank, he had definite figures to go on. He knew where he was in regard to them. Having regard to the fact, also equally important, that the value of this property regulated by law had not increased, had not shared in the general inflation in the value of property caused by the war, we had to keep that in mind. We had to fix a price which would not eat into the security value of this land. Otherwise we would be giving notice to the investor here and elsewhere that Ireland was not a place in which to invest money. We fixed the price from that point of view, and we fixed the price. I repeat it, from the point of view of

giving justice to the landlords, and when I say giving justice to the landlords I mean exactly what I say, giving justice to the landlords, all the circumstances of the case being taken into consideration. I do not think I have any other political dogma, except that one man is as good as another. I think that is the only political dogma worth fighting for. I hope, though there may be many Deputies here who have a great many more dogmas, that they will at least share that with me. We will begin with that.

Now, with regard to the standard price to the tenant. I pointed out on the First Reading that Land Purchase was essentially a Stock Exchange transaction—that is, the State borrows money from one individual or body and lends it to another. The State has to borrow money at four and a half per cent. at least for this purpose, and when you borrow money at that price you cannot lend it at less. I pointed out also, that if we could borrow money on the terms on which money was borrowed for the purposes of the 1903 Act and the 1909 Act, we could pay the landlords very nearly £1,600, and yet leave the tenant paying an annuity of £65.

The tenants put up a very strong case from their point of view. I do not admit their case for a moment. They have put up a case, a very vocal case, that they should have purchased under the previous Acts. I pointed out before the reasons of their failures to purchase under the previous Acts. These reasons are many and complicated and I need not go over them now. No doubt we will have them from others. I was willing to go a certain distance to meet them, and the Government was willing to save them from the consequences of the dearness of money due to the war. To do that we had to find just this 10 per cent., having previously settled the price as a fair price. That 10 per cent leaves them paying an annuity which is considerably less than the annuities paid by previous tenant purchasers. We had to take all this into account. We had to take expediency into account to some extent. It might be easier to deal with these 70,000 unpurchased tenants if 400,000 other tenants had not purchased already. But they have purchased. A man is living in a parish down the country; he knows the annuities his neighbours are paying, and

the conditions of previous Land Purchase Acts, and naturally gets prepossessions and prejudices which, by the strict logician might be waived aside, but for which we are inclined to make allowances, commensurate with the case. It was to make up to the tenants that money remember, for reasons over which we had no control, that we paid this 10 per cent.

I do not agree that the tenants, having regard to all the facts, particularly to the fact that they did not purchase previously, and having regard to the present conditions of agriculture, should not be allowed this 10 per cent., and that the State should not make some concession in this direction. It will only cost us £50,000 a year, which is only a small price to complete Land Purchase. That it costs only £50,000 is the answer. Everyone who knows the country, everyone who knows the reactions of this question, the artificial reactions, will admit that £50,000 is a very small price to pay for this settlement.

With regard to the costs, I do not intend to enter into an argument with Deputy Johnson as to whether the landlords are entitled to the land, or whether as a matter of expediency they should get a certain compensation for taking it away from them. That argument will lead us nowhere. There is a lot to be said for both sides. Parliament is entitled, I take it, to acquire any property it requires in the National interests. I do not think there was ever an Act passed for the compulsory acquisition of property, except, perhaps, the 1909 Act, that did not pay the cost of making title for the owner from whom the property was being taken. Surely if the price is a fair one, you should not compel a man to go to a solicitor, to go to a barrister, or conveyancer and put him to all the costs of making title. It is for the State he is asked to do it. It is for the benefit of the State he is making the title. It is the State is compelling him to make title. If the price itself is fair, if it makes no allowance for costs, then, surely, in the interests of ordinary equity and justice, the State should make some contribution to the costs. I hold that the State should pay the full cost if the price is fair. Again, expediency intervenes. We have not as much money as we would like to have, and we have not made provision for the whole costs.

We have only given them 2 per cent. That 2 per cent. will be allotted at the discretion of the Judicial Commissioner, and I certainly think that that discretion should be retained. Because there are many cases of very poor landlords. After all, we are dealing with the landlords who did not sell, and who did not sell in many cases because their estates were heavily encumbered. The price under previous Acts would be no good to them. Hence, they did not sell. We are dealing with them now, and it is only right that the Judicial Commissioner should be in a position, in a very bad case where a price is causing hardship, to give a bigger proportion of costs than in the case of a really well-off landlord into whose pocket the whole price was going. In any event, the price does not include the costs.

We are taking the land compulsorily and compelling the owner to make title. In that state of affairs it is the duty of the State at least to make a contribution towards the cost. The price here does not include the cost. The price under the 1909 Act more than included the cost, and in connection with the price mentioned in the case of every other Act, for instance the Acquisition of Land Act for railways or any other purposes, full costs were always paid.

Mr. WILSON: I would like to make the case a little clearer from my point of view. From what Deputy Johnson has stated one would imagine the State is going to assist a great deal towards the settlement of this land question. What the State is really doing is this: it is going to issue a million pound notes, if you like, with the name of, perhaps, the Minister for Finance or the Minister for Agriculture—

Mr. JOHNSON: "Cosgraves."

Mr. WILSON: and they are going to hand those to the seller of the land. All the State is going to lose on the whole business is £45,000 per year, but there is a provision in the Bill under which 5/- per cent. is to be paid by the tenant, and nobody has yet told us whether that 5/- per cent. is not making provision for this advance of interest. We have not seen the figures of the Sinking Fund. My belief is the tenant is paying the whole lot later on, before the 68 years have elapsed. However, we will hear about this from the Minister. What really is being done

[Mr. Wilson.]

is that papers are being printed and handed to the landlord, and $4\frac{1}{2}$ per cent. is being paid for a certain number of years. There is no talk at all about the State subsidising the landlord or the tenant. I do not believe we should make the Sinking Fund. We in the farming line do not want doles. We want to base calculations on actual facts, and we would like to see that our industry will not be a claim on the State. I should like to repudiate the statement which Deputy Johnson, inadvertently I admit, made. It was to the effect that we are being subsidised by the State. We are not being subsidised, and I believe a Sinking Fund is based on the fact that the £45,000 will be paid by the tenants.

The PRESIDENT: I would like to relieve the Deputy's mind on that matter, if he has any misapprehension about it. It is not the case. Clause (b) is part of the bargain. There were two parties to the bargain and they could not meet. The State, realising the difficulty of this problem, realising the importance of having it settled, surveying the whole situation and finding that one party would only give a certain price, and that the other party could not accept less than a particular price, makes up the difference. I do not subscribe to the statement made by Deputy Johnson that what the State gives the State can take away. If you establish that principle you make the legislation which would be enacted by the State the scope of every political chance that is conceivable. You damage the credit of the State. What the State undertakes to pay to-day it may possibly repudiate to-morrow. That is a rather serious proposition for a young and a new State.

Mr. JOHNSON: It is an eternal one.

The PRESIDENT: I do not think it is an eternal one. I never heard of it before. I never heard it of any State which prospered and never heard it of any State which would honour its bargain, and make its bargain and keep it. We have got to give evidence of our good faith. In this particular case you might as well say: "The day after we will take away from the tenants what they have bought from us; we will dispose of any contributions they have

made towards the liquidation of this Land Bond Fund, and we will hand over to another order of the State the property we have already taken from the landlords." It would be within the power of a Capitalist Government coming here to say: "We will stop work, as far as labourers are concerned, for one day in every week so as to punish them for looking sulky some mornings or not turning up to their work in time." That is a bad system to go on. It is the old absolutism of the Czars and it is time it was rubbed off. The State has many liabilities and responsibilities towards every section of the community and every section of the community has liabilities and responsibilities towards the State. The State has not got absolute power with regard to this. It has powers within the limitations of natural justice, and it dare not go a single inch beyond those limitations. The question in this case is, are the tenants getting off too cheaply or are the landlords getting too much? I think an examination by an unprejudiced person will give but one answer. That is that in one case they are giving all they can afford and in the other case they are getting as little as it is possible to give them with any degree of justice. Deputies smile, but if they consider and look at the bargains made under the 1903 or 1909 Acts, the smile will be the other way. In those cases there was option of purchase and option of sale but there is no option in this case. You are ramming it down people's necks whether they like it or not. You are passing an Act to acquire land and finish what has been done up to this. If the case be that this is improper and that it is too much and that you are asking the State to contribute too much towards the solution of a problem that has baffled very able legislators for more than 50 years, then I make you a present of your judgment. Take it criticised from another point of view—that it is too much to one particular section of the community, the landlords and the tenants. They might equally retort that the half million we have struck for Unemployment Insurance is too much. Manufacturers of light and heavy commodities might come here and say: "we are being taxed too much and you ought to pay us; we should get a contribution from the State instead of having our particular manufactures taxed." It is

the business of the legislator to distribute the burden evenly, to relieve it where it is too heavy, and make it light wherever it is possible. It is a very popular thing to attack the landlords' interest—very popular. There are very serious reactions in that, if that be the line of policy that is going to be taken. The success of this particular Bill depends upon the success and the credit of the State. Damage that, and there is no use in your trying to pass any Act to finish up land purchase.

Professor MAGENNIS: Deputy Johnson has, of late, indulged himself and us in the enunciation of quite a number of interesting, though not original, theories with regard to property. It would not, of course, be quite fair to twit him with the fact that the doctrines he professes in one session are not quite consistent with those which he advocates in another. In his speech on the Second Reading of this Bill he uttered words which excited my inward applause. I regret to find him to-day drawing away from the position that he took up then. I had understood from many of his previous remarks that he believed the land belonged to the people, that the land was the property of the Nation. Very good! That is still apparently the opinion on the 3rd July. On a certain date in June, Deputy Johnson was willing to take the sane, practical man's attitude, and declare, that, after all, he was not going to stand by the doctrinaire view too steadfastly, that so long as the land was cultivated he was well satisfied. Very well. Here is the way to have the land cultivated, and cultivated in the interests of the Nation. Give it to the peasant proprietor. I still have the assent of the benches on my left. The way to have the land cultivated is to give it to the peasant proprietor, but notwithstanding Purchase Acts—and one great Act as late as 1903—there are still 70,000 unpurchased tenants in the country. How are we to secure proprietary rights in the land for these 70,000 tenants if the infamous tribe of landlords, mortgagees and all the rest stand between the realisation of that great benefit for the Nation and the former class? Must the sale remain an uncompleted thing? Are no inducements to be offered? The Minister for Agricul-

ture made an absolutely complete case just now when he pointed out the business aspect of this transaction. I am trying, as I have stated, to learn the great art of taking notes. I wrote down: "The price fixed was fixed on its merits; we could not take land at less than a bank would give." The land is the very type of investment which banks seek after and all those who are looking for a safe security, such as religious orders, love to have their funds invested in the land. That is a solid fact which even Deputy Darrell Figgis in his most imaginative moments would not seek to controvert.

The one thing which I always expect to hear propounded from the Labour benches is the right of man to justice. Let me quote Burke:—"Justice is the great standing Policy of Civil Society." It is not Policy written with a little initial letter "p," but written with a capital; not policy in the common "politician" sense of mere devices of expediency, but Policy in the best and highest sense—the National Policy of equitable treatment according to the natural rights and the acquired rights of mankind. If justice is the great standing Policy of Civil Society, the next question to ask is: The Policy of what; and what is Society? Obviously the Policy of the State. Deputy Figgis is beginning to be afraid that I shall launch out, *more Figgis*, on a disquisition on the State and on Society. It is sufficient, for my purpose, to mention them and pass on. The State is merely the citizens in their collective and corporate capacity. The citizens in their collective and corporate capacity exercise control over each citizen and over all citizens in the name of the common sense of most citizens. Amongst those citizens to whom the equities have to be exercised are landlords. Deputy Johnson asked us to go into the history of landlordism and to see how the landlords of to-day came to be here. Surely, there is no sense in that. It is to invite us to behave as children. Are we to go back to the beginning of the world, and to reverse all the reverses of the battle fields, to overthrow all dynasties and to begin all over again? That is simply a proposal to substitute anarchy for civilisation. I am not a bit more enamoured of landlordism as a thing, or of the landlords of Ireland as a class than Deputy Johnson is. Neither am I enamoured of the National weather. I take the Irish

[Professor Magennis.] weather as I find it. I saw in an American paper recently the remark of a politician that he took politics as he found them, and he found them particularly rotten. I take facts as I find them, though they may be particularly rotten. Here is the solid fact, that land is the great sought-after investment, and that the land is owned or professed to be owned by a certain class of men, some of them unable to sell, though willing to sell, because of incumbrances. Transfer of the land from these men could, no doubt, be secured by absolute spoliation. I wonder does Deputy Johnson, who claims the doctrine of justice being the great standing Policy of Civil Society, propose spoliation—taking the land by violence and giving naught.

AN CEANN COMHAIRLE: The suggestion is that the State should not pay anything towards the price. That is the exact point at issue.

Professor MAGENNIS: With all respect, I have not lost sight of that. The doctrine upon which this proposal, with regard to 10 per cent., is founded was enunciated, and I am dealing with that. I am coming from the source of it in the Deputy's mind to the fact at which he arrives. I am passing along by the same route as I conjecture he travelled.

His objection to the 10 per cent. in other words is a deduction from his theory with regard to what the landlord is entitled to get. His contention is apparently that the landlord should get nothing. That is either a gratuitous assumption or it is founded on something which appeals to the Deputy's mind as reason.

Mr. JOHNSON: Were you present when I spoke?

Professor MAGENNIS: No, I was not present at the beginning of the Deputy's speech.

AN CEANN COMHAIRLE: We are not going to discuss whether the landlord should get any price for his land. That was not suggested in Deputy Johnson's speech. The question at issue is that paragraph (b) be deleted from this Money Resolution, and the effect of the deletion would be that the State would pay no contribution towards the price.

Professor MAGENNIS: I must be particularly dull, and particularly confused if the Chairman is under the impression that I have lost sight of that being the proposition. The proposition, as I understand it, is that this payment of 10 per cent. shall not be made to the landlord.

AN CEANN COMHAIRLE: A contribution shall not be made by the State towards the price. That is a different thing.

Professor MAGENNIS: No. I heard sufficient of Deputy Johnson's speech to know that he argued that if the price to be paid by the tenant was a fair price, then that was the price the landlord was to receive. If the price the landlord was to receive was a fair price, then that was the price the tenant was to pay. According to that argument, there was no room for a plus or for that 10 per cent., because there was equality. That is what I think I heard the Deputy argue. Am I not right?

AN CEANN COMHAIRLE: Yes.

Professor MAGENNIS: My contention, not rebutted, is what lies behind his mind is the idea to which he gave full and explicit expression before. However, I will pass away from that. I suppose I have said more than is sufficient on it. Why should not the State bear the ten per cent.? As the Deputy argued it, or as it appeared to me at any rate in this unhappy frame of mind in which, according to the Ceann Comhairle, I at present stand, he argued that this ten per cent. was in the nature of a bonus. Did he not repeat with approval the interjection of Deputy Gorey that it was a bonus, and that bonus is to be paid according to him out of the taxpayers' pocket. Now, all the time the argument is made agreeable to the public by being presented in this light, that the citizens of Ireland are to be subject to a financial contribution for the relief of the landlord. I invite him to put it the other way—although my friend Deputy Wilson will not allow it to be put in that way—namely, it is a levy upon the citizens of Ireland for the relief of the unpurchased tenant. And why? Because, as the Minister has just shown, £1,505, the purchase price to the vendor at £100 a year, if reduced by ten per cent., the plus, gives £1,368, which is the standard price or the price the tenant

is to pay. So the tenant has to pay a considerably smaller amount and the reason is because the amount which is sufficient to induce the vendor to sell is made up by this contribution of ten per cent. Therefore, the proper way to look at it is, it is an expenditure of public moneys in securing that there shall be no more unpurchased tenants, and now that brings me to the point which the Chairman, I am sure, will insist is the point, should the State provide that ten per cent.? That is precisely one of the functions of the State, if you accept the account which I ventured to give of it a few moments ago. The State is the individual citizens in their collective and in their corporate capacity, doing for the individual what he cannot do for himself. The individual, as a unit of ordered organised society, is invested with the power to do to himself an advantage which, as an isolated individual, he would never be in a position to secure. The State here comes to the relief of that section of the citizens, the unpurchased tenants, and secures for them a benefit which so many of their neighbours secured twenty years ago, and from which they were shut out. Now, in all those bargains, in all payment of price, we look to see what has been purchased. What is bought here is peace, not for the farmer merely, but peace and quiet settling down to industry to the benefit of the entire nation. The contribution of this ten per cent. secures a huge benefit, not to-day or to-morrow, merely, but for all the succeeding years, and not to the farmer, merely, but to every citizen. Is it not right and fair that we should not put this ten per cent. contribution upon the farmer, who is hard set, even now, to meet the price so reduced? The farmers make a case—I am a diligent student of the case they put up in all its various forms—that those terms which the Minister for Agriculture thinks so good, but does not pretend that they are either delightfully or extravagantly good, are harsh ones. I dare say, in the case of some farmers, they are. Certainly, to many they are not tempting. Is it from these men we are to exact, by legislation, that additional contribution which induces the vendor to part with the land? I think, in every fair, broad, and long view of the situation, it is really the duty of the State in this case

to supply the wherewithall that will enable this transaction which brings peace and advantage to the nation to be carried through.

AN CEANN COMHAIRLE: Before Deputy Gorey begins, I may say the effect of paragraph (b), if it remains in the Money Resolution, if it is passed in Committee, and subsequently agreed to by the Dáil, will be that the State can pay a contribution to the price. Deputy Gorey may keep in mind the fact that an amendment could be moved in Committee, making the State contribution to the price 99.9 per cent. If paragraph (b) is deleted in accordance with Deputy Johnson's amendment there would be no provision for the State making any contribution to the price. That is the exact effect.

Mr. GOREY: I thank you for this guidance, but I do not think I need it. About the State contribution—I refrained from commenting on it on the First Reading and on the Second Reading, and I refrain from contributing to the debate now, except in so far as to mention something that may, perhaps, be interesting. Under all our previous purchases we had State bonuses—bonuses very far in excess of the 10 per cent. proposed in this clause. I am not able to give you the exact figures, but I am right in saying it was very much in excess of 10 per cent. Under the 1909 Act the less the price was the more the bonus was. Under the 1903 Act the more the price was the more the bonus was, so that I do not think anybody can contradict me about it, because they do not know enough about the figures. To say 12 per cent. would not be strictly a fact. But what I want to say is that those 70,000 unpurchased tenants as citizens of the State contributed their share of this bonus. They are a very small proportion of the State, but they have borne their share. Perhaps their Minister for Agriculture could give me the number of purchased tenants.

Mr. HOGAN: 400,000.

Mr. GOREY: Is it a great crime to ask these 400,000 to do by the 70,000 as the 70,000 have done by them? The 70,000 bore, and will continue to bear, their share of those bonuses under the past transactions, and I do not think

[Mr. Gorey.]

that a great hardship or a great load is put on the State by asking them to do for these 70,000 what they have done for them. I have said I will not refer to the case that is made for this 10 per cent. I see that bank charges are named, investments of charitable institutions are named, and I think we are really getting at the actual facts when we mention some of these concerns. I am not going to refer to them; it may be good policy for the State, and I do not intend to stand in the way of the State if it thinks it is right, and I make no comment on the figures.

Mr. JOHNSON: I think the Minister for Agriculture put the case fairly when he said that the object of this 10 per cent. is to try to bring about some sort of peaceful settlement of this question, and that it is more or less of a gift, the purchase price of peace.

Mr. HOGAN: A gift to whom?

Mr. JOHNSON: A gift to the landlords, the purchase price of peace.

Mr. HOGAN: On a point of explanation, I did not say that. Even though I drew that particular statement from the Deputy now, I did not say it was a gift to the landlords. What I did say was that it was a contribution in order to relieve the tenant from the high rates of money current now as a result of the war.

Mr. JOHNSON: I would like to remind the Minister when he refutes with indignity—with indignation—perhaps I was right in saying indignity——

Mr. DARRELL FIGGIS: Very proper; very right.

Mr. JOHNSON: Certainly it was not exactly delicacy when he spoke of this Bill being a compulsory Bill. He was running down the people's necks the proposition of purchase. They could not help themselves. This State, which has not a right to undo that which a previous organisation of the State did, is applying compulsion to make landlords give up their lands to the tenants at a price fixed by the State. Well, if that is not the State undoing that which the State did, I do not know what it is, and for the President to deny so fiercely the proposition that the State, having passed laws allowing landlords

to draw rents from occupiers, and saying "Henceforward you shall not be allowed to draw rent from occupiers except on the terms that we lay down, and then only through our operation, for a limited number of years,"—if that is not undoing what was done, I do not know what it is. It is quite a common practice, of course, for the State to come along and say that something that was done once shall be repealed, and that something being done now may be repealed at some other time. Because, to make an assertion that a State can do these things does not mean to say that it ought, at the first opportunity, to do so. I am sufficiently a conservative, Deputy Magennis will be pleased to know, as to realise the necessity for something like continuity in a State policy. I am afraid of the Ceann Comhairle or I would attempt to follow Deputy Magennis. The question at issue is whether this sum, or any sum,, should be paid out of the common Exchequer to the landlords, over and above the annual sum for a certain number of years which the tenants are called upon to pay. I consider, in all the circumstances, bearing in mind the history of land purchase, the fact that the landlords have had long notice that there would be, at some point, a compulsory deprivation of this power which the State gave them to extract rent from their working tenants, that there is no injustice in saying to these landlords, having had such notice, that the price which may be considered to be fair for the tenants to pay out of the annual produce of the soil—that part of the produce of the soil which the tenants can, year by year, afford to pay in annuities—may be for a number of years handed over to the landlords in compensation for this compulsory acquisition. That is a fair proposition, and to my mind would be in justice and equity quite sufficient compensation for the compulsory re-acquirement by the State of these lands. Ministers think otherwise. They think it is necessary that something additional should be paid. Well, that is purely a matter of expediency, a matter of consideration, whether it is enough or too much, or whether anything should be paid at all. Landlords say it is not enough. None of them have come along and said that it was too much, but some of them feel that it is better than they

might have had, and they are prepared to accept it for fear that the next Dáil might not be so generous. There is no question of principle in it, no question of justice, only the question of a bargain. The proposition as stated by the Minister for Finance was, that if the buyer and seller of a beast in a fair cannot agree, and the State thinks that the prospective purchaser ought to have that beast as he could make better use of it, then the State comes along and says "We will split the difference by paying the difference ourselves." I quite agree with the President that that is a position which might frequently be taken. I am not disputing that as a principle, but I think that in this case, in view of the position of the landlords to the State and to the tenants, and in view of the notice they have had in regard to the coming of compulsion, and in view of the rents they have drawn during the last 20 or 30 years, awaiting this day of compulsory acquisition, in view of all these circumstances, there is no necessity in justice for this extra 10 per cent. to be paid out of the State coffers.

Mr. DARRELL FIGGIS: Before the matter is finally put to the vote, one point occurs to me. I had not the opportunity of listening to all the speeches, but in those I have heard, with the one exception of Deputy Gorey's speech, the assumption was always taken that this 10 per cent. contribution by the State, in order to complete and make possible this purchase, is a contribution that is to be given to the landlords. That has been confidently assumed, both in the case made, and also in the case responded to. Why is it not assumed that this 10 per cent. contribution is a contribution being made to the tenant in order to enable him to purchase satisfactorily under the present conditions?

Mr. JOHNSON: Satisfactorily to whom?

Mr. DARRELL FIGGIS: Satisfactorily to the tenant. That is an assumption that I think would entirely alter Deputy Johnson's case which has been addressed purely upon the point that the landlord is to receive this benefaction instead of the farmer, and, as Deputy Gorey already pointed out, that those who still remain unpurchased tenants will have a contribution made in their assistance by those who have purchased, just as they in their turn in times past made a contribution to those who purchased at an earlier stage. That, I take it, is the assumption under this Section of the Financial Resolution, and I believe, if it be looked at from that point of view, the entire case made by Deputy Johnson disappears.

Mr. McGOLDRICK: I am in favour of the State bridging the difficulty, but I think the amount that should be fixed for that purpose would be more equitable as regards the bonuses that have been given in this respect under previous Land Purchase Acts, which covered the kingdom as far as I know, if the portion of them now which are attributable to the area outside us were commuted, and that amount placed as a bonus at the service of the unpurchased tenants. That I think would be more equitable than any bonus sum. However, I suppose the difficulty will be met in the Bill, but I think that it is not a remission of taxes, as far as I can see, and I think it could even afford to be higher than it is.

Question put. The Dáil divided.

AN CEANN COMHAIRLE: If Deputy McCarthy wishes to have his vote recorded he must take his seat within the Dáil, in accordance with Standing Order 43.

Deputy McCarthy not attending in his place, his vote was not recorded.

The voting was:—Tá, 11; Níl, 47.

Tá.

Tomás de Nógla.
Tomás Mac Foin.
Tomás Ó Conaill.
Aodh Ó Cúlacháin.
Seamus Éabhróid.
Liam Ó Daimhín.

Seán Ó Laidhin.
Cathal Ó Seanáin.
Risteárd Mac Fheorais.
Domhnall Ó Ceallacháin.
Domhnall Ó Muirghéasa.

Nil.

Liam T. Mac Cosgair.
 Donchadh Ó Guaire.
 Gearóid Ó Súilleabháin.
 Uáitéar Mac Cumhaill.
 Seán Ó Maolruaidh.
 Seán Ó Duinnín.
 Micheál Ó hAonghusa.
 Domhnall Ó Mocháin.
 Séamus Breathnach.
 Pádraig Mac Ualghairg.
 Seosamh Mac Suibhne.
 Peadar Mac a' Bháird.
 Darghal Fíges.
 Seán Ó Ruanaidh.
 Micheál de Duram.
 Seán Mac Garaidh.
 Micheál de Staineas.
 Éarnán Altún.
 Sir Séamus Craig.
 Gearóid Mac Giobúin.
 Liam Thrift.
 Eoin Mac Néill.
 Liam Mac Aonghusa.
 Pádraig Ó hÓgáin.

Pádraic Ó Máille.
 Seoirse Mac Niocaill.
 Piaras Ócaslaí.
 Fionán Ó Loingsigh.
 Séamus Ó Cruadhlaoidh.
 Críostóir Ó Broin.
 Risteárd Mac Liam.
 Proinsias Bulfin.
 Séamus Ó Dóláin.
 Aindriu Ó Láimhín.
 Liam Ó hAodha.
 Proinsias Mac Aonghusa.
 Éamon Ó Dúgáin.
 Peadar Ó hAodha.
 Séamus Ó Murchadha.
 Liam Mac Sioghaird.
 Alasdair Mac Caba.
 Tomás Ó Domhnaill.
 Éarnán de Blaghd.
 Uinseann de Faioite.
 Domhnall Ó Broin.
 Séamus de Búrca.
 Micheál Ó Dúbhghaill.

Amendment declared lost.

Main question put and agreed to.

DAIL RESUMES.

Resolution Reported.

The PRESIDENT: I beg to move that the Dáil agrees with the Committee in this Resolution.

Agreed.

DAIL IN COMMITTEE.**LAND BILL, 1923.****SECTION I.**

(1). In order to provide for the payment of the sums which under this Act are to be paid in Bonds the Minister for Finance shall have power to create and issue, when and as required for the purpose, Bonds to be called $4\frac{1}{2}$ per cent. Land Bonds, of such denominations (not in any case less than one pound) as the Minister may determine.

(2) The Bonds shall bear interest at the rate of four and one-half per cent. per annum on the nominal amount thereof payable in equal half-yearly instalments at such times in each year as may be fixed by the Regulations under which they are issued.

(3) For the purpose of the redemption of the Bonds, a sinking fund shall be established by setting aside at the close of each half-year within the Land Bond Fund established under this Act a sum equal to one-nineteenth of the

purchase annuities for the time being payable under this Act.

(4) The Bonds shall be redeemable at par together with the payment of all arrears of interest, and the Minister for Finance shall make arrangements for the redemption thereof by means of periodical drawings, and may make regulations for the drawing of such Bonds. Such regulations shall provide for the immediate redemption of Bonds transferred by order of the Judicial Commissioner in satisfaction of Death Duties.

Provided that any Bonds may at any time after the expiration of thirty years from the issue thereof, if not previously redeemed, be redeemed at par at such time and either by drawings or otherwise as the Minister for Finance may direct.

(5) The interest on the Land Bonds and the Sinking Fund payments in respect thereof shall be paid out of the Land Bond Fund, and if the same shall be insufficient shall be charged upon and paid out of the Central Fund of Saorstát Éireann or the growing produce thereof as a first charge thereon after any charges created before the passing of this Act.

Mr. DUGGAN: I move as an amendment to delete Sub-section (3):—"For the purpose of the redemption of the Bonds, a sinking fund shall," etc.

This sub-section provides for the establishment of a sinking fund, and for the payment into that fund of certain moneys. There are other moneys which

should properly find their way into that fund. There will be cases in which tenants who purchase under this Bill instead of continuing to pay their Land Purchase annuities will come in and redeem them, and obviously that redemption price should find its way into this fund. There will also be cases of persons who purchased, and who paid part of their purchase money in cash, and that should also come into this fund. Lower down on the Order Paper Deputies will see another amendment which is to add a new sub-section in place of this sub-section which I am now proposing to delete.

Amendment put and agreed to.

AN LEAS-CHEANN COMHAIRLE
took the chair at this stage.

Mr. DUGGAN: I beg to move to add in Sub-section (4) the words "or in redemption of Land Purchase annuities charged on the lands acquired by the Land Commission under this Act."

There will be cases arising under this Bill where the Land Commission will acquire land in the hands of purchasing tenants, and subject to the payment of annuities to the Land Commission. In such cases it will be necessary for the Land Commission to provide for the redemption of the annuities, and the object of the amendment is to give them the necessary power to do so.

Question put and agreed to.

Mr. DUGGAN: I beg to move amendment to add to Sub-section (5) the following:—"Any sums so paid out of the Central Fund shall be treated as a temporary advance to the Land Bond Fund, and shall be made good out of the Guarantee Fund."

I think the amendment explains itself.

Mr. FITZGIBBON: I think there will want to be some slight further amendment about this later on. We have just deleted Sub-section (3), which was the sub-section that created the fund called the Land Bond Fund. Now, in this new sub-section we refer to this Land Bond Fund as if it existed although we have really deleted the sub-section which created the Land Bond Fund.

Mr. DARRELL FIGGIS: Would it not do after the words "Land Bond Fund" in the amendment if we inserted the words "established under this Act?"

Mr. HOGAN: I think that might meet the case. We can make the necessary amendment between this and the Report Stage.

Mr. FITZGIBBON: Yes, it would be a great deal better if it were made to fit in between now and the Report Stage.

Question put and agreed to.

Mr. DUGGAN: I beg to move to add a new sub-section as follows:—

"For the purpose of redemption of the Bonds there shall be set aside in the Land Bond Fund at the close of each half year the amount of the interest and payments in respect of Sinking Fund payable by the Land Commission, in accordance with the provisions hereinafter contained, together with any sums paid by tenant purchasers in redemption of purchase annuities payable under this Act, and any sums paid in cash by a purchaser on the sale to him by the Land Commission of any land vested in them under this Act, subject to the following deductions:—

(a) the amount of the interest on the Bonds so issued, and for the time being outstanding;

(b) the amount, if any, required for the payment off of any bonds which under this Act have been transferred by order of the Judicial Commissioner, in satisfaction of Death Duties or in redemption of Land Purchase annuities.

This new sub-section is intended to take the place of Sub-section (3), which we have deleted. I have already explained the purpose of it.

Question put and agreed to.

Motion made and question put:—"That Section 1, as amended, stand part of the Bill."

Agreed.

Section 2 put and agreed to.

SECTION 3.

The redemption price of all superior and intervening interests, incumbrances and other claims attaching to purchase money paid by means of $4\frac{1}{2}$ per cent. Land Bonds together with all arrears of and interest on such interests, incum-

branches and claims and the vendor's costs of sale and the cost of making title to such interests, incumbrances and claims, so far as the same are payable out of the purchase money, shall be paid and discharged by transferring to the person entitled thereto, out of the Land Bonds representing the purchase money, Land Bonds of equal nominal value, and such payment shall be deemed to be satisfaction to the extent of the nominal amount of the Land Bonds so transferred.

In fixing the redemption price of superior interests the Judicial Commissioner shall have regard to the price received by the vendor for the lands out of which such superior interests issue.

Mr. DUGGAN: I beg to move as an amendment to insert after the word "Bond" the words "or payable out of such interest, incumbrances, and claims."

Amendment agreed to.

Motion made and question put: "That Section 3, as amended, stand part of the Bill."

Agreed

SECTION 4.

(1) For the purpose of recouping vendors in whole or in part for the costs of sale including costs of owners of superior and intervening interests, incumbrancers and other claimants against the purchase money advanced under this Act there shall be established a Costs Fund amounting to 2 per cent. on the total purchase moneys advanced under this Act.

This Fund shall be raised by the Minister for Finance by the issue of $4\frac{1}{2}$ per cent. Land Bonds as and when required, the interest on the Bonds to be from time to time invested in $4\frac{1}{2}$ per cent. Land Bonds and added to the Costs Fund.

(2) There shall be payable to the vendor out of the Costs Fund such sum in $4\frac{1}{2}$ per cent. Land Bonds as the Judicial Commissioner shall certify to be reasonable having regard to the amount of work done in connection with the sale and the manner in which it has been done.

Provided that no payment shall be made under this section until all the lands of a vendor to be acquired or vested on the appointed day under this Act shall have been vested, unless and to the extent that the Judicial Commissioner shall direct.

Mr. FITZGIBBON: I beg to move to insert a new section before section 4 as follows:—

"From and after the first gale day in the year 1920, interest upon any mortgage charge or incumbrance charged upon or payable out of the purchase money of lands taken under this Act shall be and be deemed to have been payable and recoverable at the lowest rate only, if more than one, reserved by the instrument creating such mortgage charge or incumbrances."

It is a common practice, in drawing mortgages, to provide that the interest shall run at 5 or 6 per cent., or whatever the rate may be at the time, and then to provide that on prompt payment, or within a week or a month of the date on which the interest is due, that interest at a lower rate, say $4\frac{1}{2}$ per cent., will be accepted in full discharge. During the last two years there has been a general cessation of the payment of rents, and the consequence is that those landlords whose estates were encumbered have been unable to pay interest to their encumbrancers, with the result that what is known as penal interest, that is to say interest at the higher rate, has been accumulating against them, not through any wilful default of their own, but because they were unable to obtain the means to discharge their own liabilities. That, of course, is a considerable hardship upon those landlords who are now compelled to sell and from whom, but for some such amendment such as I suggest here, that penal interest would be recoverable in full for the period during which they were unable to discharge it. Also, while sales are going through, during the investigation of titles, there will be a cessation of payment to the landlord of the interest on his bonds until the title is clear, and of all payment on the mortgages until they will have cleared their title of the encumbrances. During that period also through default, interest at the penal rate will be accumulating against the fund which is ultimately to go to the landlord. I have discussed the matter with representatives both of the encumbrancers and of the landlords, and I think it is only a reasonable thing that these encumbrancers, who were entitled to charge the higher rate of interest by reason of de-

fault, should be compelled to forego that charge where the default was not the default of the landlords. It was not a case with the landlord of collecting his rents and putting the money in his own pocket and not paying the interest to the encumbrancers. It was a case that he had not got the money for the time being to meet the interest charges, and now, especially as the arrears of rent upon which that interest was charged, are going to be paid to him subject to a considerable reduction, it seems fair to me, and I suggest to the Dáil it is only fair that that reduction should fall also upon those encumbrancers who, in many cases, have been the cause of preventing the landlords from selling their lands earlier. I suggest that this amendment is fair, and should be accepted.

Mr. HOGAN: I agree with the object Deputy Fitzgibbon has in view—that is to say, that mortgagors should not be met by penal interest. That, I think, is what he aims at. He points out that there may be a normal rate of interest mortgaged in the deed with a penal rate becoming payable on account of delay, but I think his amendment goes somewhat further than he intends. The Deputy, I think, will agree that there may be a third rate of interest in the deed—that is to say, a normal rate, a penal rate, and a lower rate. If his amendment were accepted, payment would be in accordance with the lowest rate of interest, and I do not think he intends that. I have drafted an amendment which I think meets the case he puts forward. It read as follows:—

“Where the instrument creating any mortgage charge or incumbrance payable out of or charged upon the purchase money of lands taken under the Act provides that interest shall be accepted at a reduced rate upon prompt payment, no higher rate shall be due or recoverable in respect of arrears of interest or on account of any default or delay in payment of interest upon such mortgage charge or incumbrance pending the completion of the sale.”

That, I think, makes it clear that only penal interest is barred, and that the normal rate of interest runs. If the Deputy moves that amendment, I am prepared to accept it.

Mr. FITZGIBBON: That amendment

seems to me to cover the cases I have in mind, and with the permission of the Dáil I desire to withdraw the amendment that I moved originally.

Amendment, by leave, withdrawn.

Mr. FITZGIBBON: I now beg to move the amendment submitted to me by the Minister.

Amendment put and agreed to.

Question put: “That the new section stand part of the Bill.”

Agreed.

AN LEAS-CHEANN COMHAIRLE: The next amendment is No. 7.

Mr. JOHNSON: It would be more satisfactory to take No. 8 first, because if it passes there will be no need to discuss No. 7.

AN LEAS-CHEANN COMHAIRLE: I think we had better take No. 7 first.

Mr. HOGAN: I would suggest that we should take No. 8, because if it passes there will be no necessity for No. 7.

AN LEAS-CHEANN COMHAIRLE: Very well.

Mr. JOHNSON: I beg to move the deletion of Section 4. The matter was discussed a little while ago on the Resolution, and I do not propose to repeat the arguments. It is simply a matter of principle, that there is no case in equity and in justice for this claim that there should be this 2 per cent. Costs Fund charged upon the State.

Mr. DARRELL FIGGIS: On a point of order, is not that exactly what was being discussed on the Financial Resolution, and has it not been decided by the Dáil?

Mr. JOHNSON: We are in Committee on the Bill now.

Mr. HOGAN: I do not think I need repeat what I said on the Financial Resolution. I do not think the Deputy himself would, for instance, ask the Dáil to pass a law acquiring land for a public building or a railway, and compel the owner to make title without at least paying him his costs. As I said, the price we have calculated does not include

[Mr. Hogan.] costs. We are making the owner liable for the costs of making title, and, as the price does not include costs, I put it to the Dáil that in equity we should at least make a contribution towards the costs. It will be helpful also to relieve the owners of heavily encumbered estates.

Amendment put and declared lost.

Mr. JOHNSON: I beg to move:—

"In Sub-section (2), before the proviso, line 39, to insert a new proviso: 'Provided that no payment under this section shall exceed one-half of the costs actually incurred by the vendor; and ' "

This is a provision that the payment under the section shall not exceed one-half of the costs actually incurred by the vendor. The Minister has told us that the 2 per cent. will not be enough, and that being so, it is clear that the proposition is not to bear the whole of the costs. Then the question is, what proportion of the costs is to be borne out of this Costs Fund? My amendment is that not more than one-half should be borne. We are not now dealing with the question of principle. Notwithstanding the argument of the Minister that it is customary in the purchase of other classes of property for the costs to be borne by the purchaser, in this case the costs are not to be borne by the purchaser, but only part of them. What part of them? What proportion? My proposal is that the proportion should be limited to one-half. There is no other limiting motion. It is to be left to the discretion of the Commissioners as to whether they will pay one person 50, another 75, another 90, and another 100 per cent. This amendment is that there shall be a definite limit of one-half of the actual costs incurred.

Mr. FITZGIBBON: I suggest that in very many cases one half of the actual costs incurred will be considerably more than the Land Judge would be likely to allow. The late landlord ought not to be limited in this case as is proposed. But for the compulsory taking of what we must regard, at any rate, as his property by the State for the purpose of resale to the tenants, these costs would not be incurred at all, in most cases the en-

cumbrancers have been perfectly ready to leave their encumbrances as they stand and draw their interest or annuity, whichever it might be. In many cases that has gone on for 50, 60, or 70 years. It is not making the title to the Land Commission that really costs so much as the clearing by the landlord of the people above him who have to be paid out of the purchase money before he can get the balance, whatever it may be, that is left to him out of what the State has paid him for his land. The landlord converts what is an annuity, in the shape of rent, into a capital sum, and all the other people who have capital charges upon that annuity that the landlord has hitherto received from his tenants have to be paid off in capital sums out of the capital sum into which his annuity has been converted. It is in the clearing up of the title to these and getting rid of them, in order that he may get the residue for himself, that the costs are really incurred. That is expense which has been directly forced upon him by the State by its act in taking the property from him which produced the annual sum, and giving him a capital sum instead. If there is anything in the Bill which ought to be borne by the State, which for public purposes has altered the character of his property, it seems to me that it is the costs put upon him to enable him to get the property in its new form. The 10 per cent. is another matter. The 10 per cent. bonus was justified by the Minister. I agree that it did require justification. He made a case, which the Dáil accepted, for the contribution by the State of 10 per cent.—part to the landlord and part to the tenant, one or the other as the case may be—but a contribution to bridge the difference between the price which the vendor was willing to take, or is being compelled to take, and the price which the purchaser was willing to give. This Costs Fund seems to me to be an entirely different matter, and to stand on the pure principle of justice. Where you put a man to expense by taking his property, which he would otherwise not have been put to, you ought to shoulder that responsibility just in the same way as a railway company or a corporation which takes land for public purposes have to pay the costs of showing title. This is not so much a question of showing title by the person from whom the

State has taken the land as clearing up the title by him for the purpose of getting his own property.

Mr. HOGAN: I do not think the Deputy really realises what the effect of the amendment would be. We have now agreed to the Costs Fund, and his amendment suggests that nobody should receive more than one-half. Take a small estate which would be more likely to be heavily encumbered than a large estate. When you come to make title the probabilities are that it is more difficult to make title, as perhaps there are more mortgages, more superior interests, more complications of all kinds. It might be much harder and much more difficult to make title to an estate of £2,000 or £3,000, heavily encumbered, than it would be to make title to an estate of £5,000, £8,000, or £10,000 not encumbered at all. It is only right that the Judicial Commissioner should be able to exercise discretion and give more costs to such an owner, because he has been put to much more difficulty and to more expense to make title, and also because he is less able to bear the expense of making title. I do not see anything against that. In all equity it is the fair course.

Amendment put and lost.

Motion made and question put: "That Section 4 stand part of the Bill."

Agreed.

SECTION 5.

The provisions of Section 48 of the Irish Land Act, 1903, shall not apply in respect of any land, whether tenanted or untenanted, purchased by or becoming vested in the Land Commission under or by virtue of this Act.

Mr. McGOLDRICK: What is the position where lands are taken over that have been purchased under the 1903 and other Acts?

Mr. HOGAN: I do not understand the Deputy's question.

Mr. McGOLDRICK: The Land Commission are to take over land that was previously purchased under the Act of 1903. Does this clause permit the Land Commission to abolish the percentages that existed under the 1903 Act?

Mr. HOGAN: Does the Deputy mean by percentages the annuity?

Mr. McGOLDRICK: Bonus percentages. I have not the Act before me, but I understand this clause of the 1903 Act deals with percentages, which I assume is the bonus.

Mr. HOGAN: This Section states—"The provisions of Section 48 of the Irish Land Act, 1903, shall not apply in respect of any land, whether tenanted or untenanted, purchased by or become invested in the Land Commission under or by virtue of this Act."

Section 48 of the Act of 1903 provided for the bonus. We are abolishing it. This Bill, Deputies must remember, is an amendment to previous Acts. Previous Acts, so far as they are not amended, will hold good. This abolishes the bonus. If there is any doubt or difficulty, as the Deputy seems to have, about completed sales, because he refers to our taking power to take over land already purchased, of course the landlord has got his purchase money, and there is nothing on the holding except the annuity, and the Land Commission will redeem the annuity as provided by an amendment just put in.

Motion made and question put: "That Section 5 stand part of the Bill."

Agreed.

Sections 6 and 7 put and agreed to.

SECTION 8.

Subject to the provisions of this Act every advance made in pursuance of a subsequent purchase agreement shall be repaid, in the manner and at the times prescribed by the Minister for Finance, by means of a purchase annuity calculated at the rate of $4\frac{1}{2}$ per cent. on the amount thereof.

The purchase annuity shall be paid until the whole of the advance in respect of which it is payable is ascertained in manner prescribed by the Minister for Finance to have been repaid.

Mr. WILSON: I move: To insert after the word "thereof," line 59, the following: "provided that if the option of redemption in Sub-section (4) of Section 1 be exercised by the Minister for Finance, any advantage gained by that

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transaction be used to reduce annuities to tenant purchasers."

The object of this amendment is, in case the Minister for Finance thirty years hence exercises the option he has to purchase these Land Bonds at par—and presumably he will not undertake that transaction if money is dearer, but only where a profit would be made, and we assume that he will make a profit—that that profit should be passed on to the tenant purchaser. As the Bill now stands the purchaser must pay $4\frac{1}{2}$ per cent. Supposing that the Minister for Finance thirty years hence could raise money at $3\frac{1}{2}$ per cent., he would be able to save 1 per cent. to the State. That would be a profit. On twenty millions that one per cent. would amount to £200,000, which would go into the Central Fund from the pockets of the tenant purchasers. In order to be just I think that these people, who will be the last in Ireland paying rent, as nearly everyone on the land will then own it, should get the benefit of that £200,000 to enable them to get some decadal reductions. I have not made a calculation, but I am pressing the amendment as the Minister has provided for contingencies. We are legislating for thirty or sixty years in advance, and we should make some provision for contingencies. The contingency in this case would amount to the enormous sum of £200,000 or, spread over 30 years, to £6,000,000. That should be passed on to the tenants.

The PRESIDENT: I do not know that the terminology of this particular amendment is acceptable. In essence the principle of it is practically in operation at the present moment, and has been for a considerable time. That is to say, any person reducing an annuity practically gets the sum owing in respect of a particular purchase transaction. It is practically extinguished in Stock, so that, instead of paying cash, you practically extinguish whatever is due by the purchaser by an equivalent amount of Stock. It might cost a little more, as there are certain expenses incidental to and inseparable from a transaction of that kind, which are added on. This particular amendment would perhaps involve the State in a loss or prevent the State from getting a small, or a relatively small, sum which

they are entitled to at the present moment. I do not think the Deputy intends that in any transaction that takes place under this Bill that the person purchasing would get an advantage which is not enjoyed by persons who bought under the 1903 or under the 1909 Acts. I know something about this, as I was interested for the last couple of years in finding out what it would cost to redeem an annuity. I found it was possible to purchase Land Stock at a very considerably reduced price, and that some little advantage would accrue. You got practically an investment at something like five or six per cent., and I think that is all the Deputy intended when he put down the amendment. Subject to what I have said with regard to certain small costs that are consequential and inseparable from a transaction of the kind, at present any person has the right who has bought under the 1903 or 1909 Acts, and the same thing would apply as regards this Bill.

Mr. WILSON: The Minister, I think, has missed my point. I am not asking that the State should lose any costs. My amendment is that, if there is a profit, it is to go to the tenants.

The PRESIDENT: Well, that is what the tenant gets at the present time, and it is not proposed to take that from him.

Mr. WILSON: There is no provision made for the tenants in the event of a profit. Nor is there a provision to buy these Land Bonds at par. That is a contingency that will arise, and the Minister for Finance, who may be here at the time will use the profit that will accrue to the State not for the benefit of the tenant purchaser, but for the benefit of numerous applicants. I want to earmark that particular profit for the benefit of the only people who will be paying rents, because everyone else will have all their annuities extinguished.

Mr. JOHNSON: I wonder if the Deputy will accept the view that after the ten per cent. and two per cent. will be wiped out, any profits then accruing will go to the tenant purchasers? If he accepts that I think the general principle will be acceptable.

Mr. GOREY: Deputy Wilson's argument has helped to disabuse Deputy

Johnson's mind if he is under the impression that he is making a gift of this money to the seventy thousand tenants. In the 1903 Act the purchasers were not paid in stock; therefore the provisions could not apply. They were paid in cash. They got money. The State proposes, when the new Chancellor of the Exchequer will arrive in twenty or thirty years time, to make considerable profit out of this. Deputy Wilson proposes that the State should act as an honest clerk and begin to be honest.

The PRESIDENT: Any honest Chancellor of the Exchequer or Minister for Finance would be glad to see people redeeming any loan. The Minister for Finance, or Chancellor of the Exchequer, will not be looking for a profit to get such loans reduced. You may take it it will be a business proposition for him. But there are certain variations to this business here that might certainly be repugnant to a future Minister for Finance, and we have not the right to bind him.

Mr. WILSON: The Minister for Finance has forgotten one point. If money is cheap twenty or thirty years hence the Land Bonds of £100 will be worth from £120 to £130. If three per cent. were the value of money then, the Bonds would be worth £130 or, as I am told, £150. I want the Minister for Finance to exercise this particular option of buying £130 stock for £100, and passing the benefit to the people whom I have referred to. He is entitled to do this. These tenant purchasers will be the only people in Ireland who will then be paying rent—

The PRESIDENT: Will the Deputy explain how that transaction will arise—that you buy £130 for £100—

Mr. GOREY: It will be a profit.

The PRESIDENT: A loss is sustained by someone. For example, the Deputy has bought his land and he owes, let us say, £600 annuities. That represents at its face value £720. That is in the possession, let us say for the sake of argument, of Deputy Gorey, and the Minister for Finance is to come along to Deputy Gorey and say: "You have £600 worth of stock. It is valued in the market at £720. Here is £600." And Deputy Gorey, being a meek, humble individual, hands over the £720 worth of

stock for £600. Where is the profit? Deputy Wilson holds there is a profit of £120, which is to be handed to the tenant. I cannot understand his point. Is the figure £480 or £720? It appears to me to be a financial puzzle which can only be elucidated by Deputy Wilson or Deputy Gorey.

Mr. WILSON: The matter is a little bit confused. If the Minister for Finance 30 years hence can get money at $3\frac{1}{2}$ per cent.—that is quite probable—it is his business to pay those people off at par. It does not matter who holds the Bonds. It is the Minister's duty to reduce the amount of interest payable to those people. He will gain by that probably 1 or $1\frac{1}{2}$ per cent. One per cent. will realise about £200,000, which is really too much to give to the State, and which is taken out of the pockets of 70,000 or 100,000 people, who will possibly be the last people in Ireland paying rent. I think that is a fair proposition, and I hope the Deputies will vote in accordance with pure justice.

Mr. GOREY: Is there not a Section in the Bill under which the Government will be enabled to redeem anything at par? What is the Minister for Finance talking about?

The PRESIDENT: The Minister for Finance is talking about Deputy Wilson and yourself.

Mr. GOREY: I do not think you are answering the question. Your contention seems to be in direct contradiction to the terms of the Bill. Everybody knows what par means—even the Minister for Finance.

The PRESIDENT: I am at a loss to know where is the profit. I have been trying to find out, and I cannot, and I have not been told. As far as I see, this amendment is not a sensible one: it does not lead us anywhere. There are three parties to this transaction—the people selling, the people buying, and the State. Whatever the people who are selling get, and whatever the people who are buying get, certainly the State is getting nothing for the liability. The representatives of one of the three sections come forward here and say that if there is to be any profit out of this transaction—and they have not indicated where the profit is to be—a certain

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party to that transaction is to get that profit. If the matter were to be dealt with equitably it ought to be dealt out between the three sections, granted that the three were beneficiaries. It appears to me that there is one section badly served by a burden which the other two sections have enjoyed putting upon it. Thirty years hence, supposing money is cheap, this section that has borne the brunt may possibly be repaid to some advantage. We are told if there is any profit it is a section other than this section that is to benefit. I could not recommend that from the point of view of the State.

Mr. DARRELL FIGGIS: If the State issues a certain sum at £100 that hereafter stands, let us say, at £120, and the State redeems at £100 what stands at

£120, and which it originally issued at £100, the State is only getting back what it originally issued, and could only realise the extra £20 if it could reissue. Therefore, it seems to me that there is no profit.

Mr. WILSON: Would I be permitted to speak again?

*** AN LEAS-CHEANN COMHAIRLE:** No. You have already spoken three or four times.

Mr. JOHNSON: If I can buy a £1 note for 15s., and if I can go and borrow the fifteen shillings in the market, I am making a profit, and that, I think, is Deputy Wilson's case.

Mr. WILSON: Quite so.

Amendment put.

The Dáil divided: Tá, 19; Níl, 38.

Tá.

Donchadh Ó Guáire.
Seán Ó Duinnín.
Domhnall Ó Mocháin.
Tomás de Nogla.
Liam de Roiste.
Tomás Mac Eoin.
Seán Ó Ruanaidh.
Tomás Ó Conaill.
Aodh Ó Cálacháin.
Seamus Eabhróid.

Risteárd Mac Liam.
Liam Ó Dainhín.
Seán Ó Laidhín.
Cathal Ó Seanáin.
Domhnall Ó Broin.
Domhnall Ó Muirgheasa.
Risteárd Mac Fheorais.
Micheál Ó Dubhghaill.
Domhnall Ó Ceallacháin.

Níl.

Liam T. Mac Cosgair.
Gearóid Ó Suileabháin.
Uaitéar Mac Cunnhaill.
Seán Ó Maolruaidh.
Seamus Breathnach.
Pádraig Mac Ualghairg.
Seosamh Mac Suibhne.
Peadar Mac A' Bháird.
Darghal Fíges.
Micheál de Duran.
Seán Mac Garaidh.
Pilib Mac Cosgair.
Micheál de Staines.
Domhnall Mac Cártaigh.
Earnán Altún.
Sir Seumas Craig.
Gearóid Mac Giobhúin.
Liam Thrift.
Eoin Mac Neill.

Liam Mac Aonghusa.
Pádraig Ó hÓgáin.
Seoirse Mac Níocaill.
Piaras Rénsal.
Fíonán Ó Loingsigh.
Seamus Ó Cruadhlaioich.
Proinsias Bulfin.
Seamus Ó Dóláin.
Aindriú Ó Láimhín.
Liam Ó hAodha.
Proinsias Mac Aonghusa.
Eamón Ó Dúgáin.
Peadar Ó hAodha.
Seamus Ó Murchadha.
Liam Mac Sioghaird.
Alasdair Mac Caba.
Tomás Ó Domhnaill.
Earnán de Blaghd.
Uinseann de Fáite.

Amendment declared lost.

Mr. DUGGAN: I beg to move the following amendment:—

To add at the end of the section a new paragraph as follows:—"The provisions of the Provisional Government Transfer of Functions Order, 1922, shall not apply to purchase annuities

payable in respect of advances made under this Act."

That amendment is necessary to ensure that the money should find its way to the Guarantee fund.

Amendment put and agreed to.

Motion made and question put: "That Section 8, as amended, stand part of the Bill."

Agreed.

SECTION 9.

(1) There shall be established a Land Bond Fund under the control of the Minister for Finance, out of which shall be paid the dividends and Sinking Fund payments in respect of all Bonds issued under this Act.

(2) Accounts of the receipts and expenditure of the Land Bond Fund both as regards capital and income shall be kept by the Minister for Finance, and those accounts shall be audited by the Comptroller and Auditor-General, and the accounts when audited shall be laid before the Oireachtas.

(3) For the purposes of this Act the Land Commission shall keep such accounts containing such particulars and entries as the Minister for Finance may direct, and shall furnish those accounts to the Minister for Finance as and when required by him, and the said accounts shall be audited in such manner as the Minister for Finance may prescribe.

Mr. SEARS: I move Amendment 11:

To delete in Sub-section (1), line 3, the words "and Sinking Fund payments," and in line 4 to add, after the word "Act," the words "together with the sums required for redemption of Bonds under this Act."

Amendment put and agreed to.

Mr. SEARS: I move Amendment 12:

To add a new sub-section as follows:—"Any balance to the credit of the capital or income account of the Land Bond Fund may be temporarily invested by the Minister for Finance in such manner as he may think fit."

The object of this amendment is that there shall be no money lying idly on hands.

Mr. JOHNSON: May I draw attention to a word which I suggest is misused? The point really arises under a later amendment. The word "dividend" in such a case is not the correct word. It is a question of the correct use of the English language. Strictly speaking, dividend is the result of that which is divided, and in the case of interest on

bonds, dividend is not the correct word to use. Perhaps the point would be noted for next Reading.

Mr. HOGAN: If the Deputy prefers the word "interest," I am quite agreeable. We can arrange that on Report.

Mr. JOHNSON: It is not a matter of preferring it. I think it is more accurate. If the grammarians at your disposal think differently, I am satisfied.

Mr. HOGAN: The word "dividend" is the word used in the same connection in all the other Land Acts. It is distinctly useful in the case of an Act which has carried out its intentions—to use the same words when you want to carry out the same intention.

Mr. JOHNSON: I think they were not quite the same.

Mr. HOGAN: They were.

Mr. WILSON: In this case it seems to be the intention that the money that will be temporarily lying to the credit of the Land Bond Fund will be applied to redeem Free State Loans. In that case you will be making a profit, and I think it is not doing justice to our side if you make a profit in that way and not put it to the credit of the Sinking Fund in connection with the Land Bill. I think the proceeds of the investment should go towards the Sinking Fund.

Mr. HOGAN: If the Deputy would read the provision in the Bill which states that the accounts shall be audited by the Comptroller and Auditor-General and laid before the Dáil it would allay his suspicions. The accounts will be audited each year and laid before the Dáil, and when the time comes for the Dáil to deal with them they will have a discretion as to what to do, and they will have all the facts before them.

Mr. GOREY: I hope they will be more explanatory than some of the Estimates.

Mr. HOGAN: It is not a question of the Estimates not being explanatory, but of its being impossible to explain them to some people.

Amendment agreed to.

Motion made and question put: "That Section 9, as amended, stand part of the Bill."

Agreed.

SECTION 10.

(1) Interest at the rate of four and one-half per cent. per annum shall be paid by the Land Commission to the Land Bond Fund on the nominal amount of all Bonds issued under this Act by the Minister for Finance to the Land Commission and not certified by the Minister for Finance to have been repaid.

(2) Where advances are made by the Land Commission the Land Commission shall, until the advances are ascertained to have been repaid, pay to the Land Bond Fund in respect of those advances five shillings per cent. per annum in respect of Sinking Fund.

(3) Where the Land Commission purchase any land, no sums in respect of Sinking Fund shall be payable until the Land Commission have disposed of that land to purchasers.

(4) If at any time the said annual payments shall be in arrear for forty days, the amount in arrear shall be charged on, and forthwith made good out of, the Guarantee Fund.

(5) The powers conferred by the Land Purchase Acts for raising such sums as may be necessary to recoup the Guarantee Fund for payments made thereout shall henceforth be exercised by the Minister for Finance in manner prescribed by rules made by him under this Act.

(6) Payments by the Land Commission under the preceding sub-sections shall be made at such times in each year as may be prescribed by the Minister for Finance.

(7) A sum sufficient to pay the dividends on the Bonds issued under this Act for contribution to price and for the Costs Fund shall be paid in each year to the Land Commission out of moneys provided by the Oireachtas.

Mr. DUGGAN: I move Amendment 13:—

“To delete Sub-sections (2) and (3), and to substitute in lieu thereof the following Sub-sections:—

(2) The Land Commission, where land is vested in them under this Act, shall, until the purchase annuities charged on the land cease to be payable, pay to the Land Bond Fund in respect of sinking fund five shillings per cent. per annum:—

(a) in the case of tenanted land on the standard price thereof from the appointed day;

(b) in the case of untenanted land on the amount of the advances made in respect of such land from the date on which such advances become repayable, and, in so far as such land has not been disposed of within a period of five years from the appointed day, on the amount of the price of such land from the expiration of said period until the lands have been resold.

(3) The Land Commission shall pay to the Land Bond Fund all sums received by them for the redemption of purchase annuities payable under this Act, and all sums paid in cash by purchasers on the sale by the Land Commission of any land vested in them under this Act.

The new sub-section (2) elaborates the wording of the old sub-sections (2) and (3), and differentiates between the case of tenanted and untenanted land. The new sub-section (3) is consequential on Amendment No. 4, already agreed to.

Amendment agreed to.

Mr. JOHNSON: I move Amendment No. 14:—“In Sub-section (2), line 24, to delete the words ‘five shillings’ and to substitute therefor the words ‘a quarter of one.’” This is another amendment that would have come better from Deputy Magennis. I bring it forward as providing a better expression than that in the Bill. Five shillings per cent. strictly means 5s. per 100 shillings, and that is not what is intended.

Mr. HOGAN: Deputy Johnson seems to be quite correct, but, strange to say, that is exactly the term used in the 1903 and the other Acts, only 10s. is the figure in the 1903 Act, instead of 5s., as in the Bill before the Dáil.

Mr. JOHNSON: They are not always very accurate in those Acts.

Mr. HOGAN: When you want to achieve a certain purpose you are always perfectly safe in going according to an Act which has achieved that purpose. There is then no danger that a Judge will misinterpret the wording. I would rather give this matter a little more consideration and deal with it on Report.

Amendment, by leave, withdrawn.

Mr. DUGGAN: I move Amendment 15:—“To delete Sub-section (5).” The matter covered by Sub-section (5) will

be included in the new Section 11, which will be proposed under a subsequent amendment.

Amendment agreed to.

Amendment No. 16:—"In Sub-section 7, line 40, to delete the word 'dividends' and to substitute in lieu thereof the word 'interest.'"

Mr. JOHNSON: I have already raised this matter. It is quite a formal matter, and as the Minister has undertaken to consider it I ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Motion made and question put: "That Section 10, as amended, stand part of the Bill."

Agreed.

SECTION 11.

All sums collected in respect of arrears of purchase annuities in repayment of advances made in pursuance of purchase agreements lodged prior to the passing of this Act shall be paid into the Guarantee Fund.

Mr. DUGGAN: I move Amendment No. 17:—

To delete the section, and to substitute therefor the following new section:—" (1) The powers declared in Section 6 of the Purchase of Land (Ireland) Act, 1891, to be exercisable by the Lord Lieutenant or by the Treasury, shall henceforth be exercised by the Minister for Finance, and the notice provided for by Sub-section (2) of the said Section shall cease to be required. (2) Notwithstanding anything to the contrary contained in the Provisional Government Transfer of Functions Order, 1922, all sums collected after the 31st day of March, 1923, in respect of arrears of purchase annuities in repayment of advances made in pursuance of purchase agreements under the Purchase of Land (Ireland) Act, 1891, or any later Land Purchase Act, other than subsequent purchase agreements, shall be paid into the Guarantee Fund."

With the permission of the Dáil I would like to propose this amendment in slightly altered form, and exclude from the last two lines the words "other than

subsequent purchase agreements." These words are unnecessary, and are slightly confusing.

Amendment, as altered, agreed to.

Mr. GOREY: I move Amendment 18

To add to the Section the following words:—"Provided, however, that where grants have been withheld from County Councils, in consequence of the non-payment of annuities, such arrears of grants shall be forthwith paid to the County Councils concerned before any of the sums so collected shall be paid into the Guarantee Fund."

This section has been deleted and a new section has been put in. At present the rates are held responsible for arrears of purchase annuities. The County Council has to make good the amount of the annuities in arrear, with the result that the funds of the County Council suffer. I want to provide that before the money is paid into the Guarantee Fund the loss to the County Council will be made good.

The PRESIDENT: I do not understand the purpose of this amendment. As far as I can see, it means that whatever guarantee you have had by the setting up of the Guarantee Fund goes by the board. The State is putting up a considerable contribution towards the solution of this problem. We look for some guarantee in respect of annuities that should be paid. Where they are not paid we call upon this Guarantee Fund. The Guarantee Fund is made up of moneys which in the ordinary course would be paid to local authorities in relief of rates. In order to secure that the Guarantee Fund will have moneys, certain sums are paid into it. This amendment would take out those sums.

Mr. GOREY: No, it would not.

The PRESIDENT: "Such arrears of grants shall be forthwith paid to the County Councils concerned before any of the sums so collected shall be paid into the Guarantee Fund." If the dispute be regarding certain delay which took place by reason of the fact that annuities are not paid, I think it is unreasonable, because those Land Commission annuities are generally just a month or so in arrears. That month or so may be a period during which the charge will fall upon

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the Central Fund, unless there is some other method of finding the sums necessary to pay the dividends on the Sinking Fund. If there be a loss, that loss ought to be shouldered by those responsible for it. I do not understand the amendment, unless it be to discount the value of the Guarantee Fund, or to compensate people living in the neighbourhood, or to compensate County Councils in the neighbourhood of which Land Commission annuities are not regularly paid. If they are not paid, on whom should the responsibility lie?

Mr. GOREY: On the Land Commission.

Mr. WILSON: On those who do not pay.

The PRESIDENT: If it should fall on the Land Commission, what is the strength of the Land Commission to bear it? The Land Commission must be fed from somewhere, and it is not even fed from here. This fund only feeds when the land annuities are not paid. The time arrives when the land annuities are paid. If the purpose of the amendment be that directly they are paid they should be sent back at once without delay, I say there is no unreasonable delay, having regard to the fact that normal Government machinery is thrown out of gear when people do not discharge their debts. The State is security for most of those things, and the State naturally looks to something on which it can draw in the event of those land annuities not being paid. If the dispute then be as regards delay in restoring moneys to the Guarantee Fund, I say there has been no unreasonable delay.

Mr. GOREY: I take it that the formation of the Guarantee Fund under this Bill will be responsible for any laxity of payment, and not the County Councils. This amendment is dealing with the machinery that held good under the previous Acts, and we want the County Council to be relieved, and the first payments made into their funds for any of those annuities out of the Agricultural Grant. The operation was that a certain amount of money had to be withheld from the Agricultural Grant to make good the deficiencies on annuities. The common impression through the country is that the Land Commission was not

stringent enough in exercising its rights in collecting its annuities. We do not refer to the people who were only a month or so in arrears. We refer only to bad debts, and we want to get the defaulters in that respect dealt with more energetically. If the Central Authority had all the responsibility instead of the County Council, they would be more energetic. This amendment is not dealing with the operations of this Bill, but with the operations of the previous Act.

The PRESIDENT: I do not agree with this amendment. I do not agree with it, because it reduces to some extent the central administration. There is no use in telling me that only certain people do not pay. Within the past few days we had to draw very heavily on this Guarantee Fund to pay the interest due on the 1st July. Just imagine what our position would be if there was not a fund to draw on in order to make up the sum necessary to discharge the interest honourably due by us in connection with the previous Acts. The whole finance of this would break down, and our credit would be very seriously damaged. We had that Guarantee Fund to draw on, which made it different. The local authorities in the area under the jurisdiction of which those particular holdings are situate, will feel this change. There is no other way that we know of to bring it home to them equitably. A sum of over £1,000,000 is distributed from the funds raised in taxation to relieve local taxation. A certain amount of that is ear-marked as a sort of security for the payment of those Land Commission annuities. It is so used to make good whatever has been drawn out of the Guarantee Fund to make up the difference of the sums we have collected in respect of Land Commission annuities and the sums we have to pay to discharge the interest and sinking fund charges on land stock taken up by people in good faith, believing we would pay interest on the sinking fund to pay them their dividends, and make good the ultimate taking up of the land stock that has been issued.

If you in any way weaken that Guarantee Fund, you are weakening the credit of this transaction; you are weakening any confident anticipation that we had from the beginning that this Stock would remain at a fair price. It is most essential that it should remain

at a fair price, because the basis of the Act was that it would be practically *par*. If you reduce the security a person has by taking away the security of the Guarantee Fund in any way, you are reducing the security that the person has who invests in Land Stock. "Arrears of Grants shall be forthwith paid to the County Councils concerned before any of the sums so collected shall be paid into the Guarantee Fund." Arrears of Grants in that case means something that has been withheld. Very good. These arrears of Grants shall forthwith be paid to the County Councils from what?

Mr. GOREY: From the Agricultural Grant.

The PRESIDENT: The State, in the first instance, collects this from all the taxpayers. It divides it into certain compartments. One compartment is called the Guarantee Fund. When the Land Commission annuities collected are insufficient to discharge the interest and the Sinking Fund, we take it from a particular compartment and make good that amount, and we hand out the interest and the Sinking Fund. That is now what happens. "Arrears of Grants shall be forthwith paid to the County Councils concerned." You have got to pay them and you find an empty box. Where is the money to come from?

Mr. WILSON: You collect it from the man who did not pay. He will probably pay two months later, and it will go into this box.

Mr. CORISH: Is it usual for the Government to withhold a Grant in the case of a county in which the annuities are completely paid, because in County Wexford we went to the trouble of finding out what annuities were due, and we found there was a very small proportion due compared with the amount of money the Government owes the County Council?

Mr. O'DONNELL: I think it is a most degrading thing, and I think it does not become the dignity of the Dáil that in this Land Bill, in which the Nation's credit is pledged, we should be looking for loopholes for any Party to seek to evade just and lawful debts.

Mr. GOREY: I take this as an insult from an ignorant Deputy.

SEVERAL DEPUTIES: Withdraw.

Mr. GOREY: I will not withdraw unless he withdraws the word "evade."

AN LEAS-CHEANN COMHAIRLE: The Deputy really should withdraw that, because he should not make any personal reflection on any Deputy. I ask Deputy Gorey to withdraw that remark.

Mr. GOREY: Very well, I withdraw it, but I ask you to ask the Deputy to withdraw the word "evade."

Mr. O'DONNELL: No.

Mr. GOREY: Has Deputy O'Donnell the right to insult any other Deputy here?

AN LEAS-CHEANN COMHAIRLE: I did not take Deputy O'Donnell's remark as being insulting to any Deputy.

Mr. GOREY: Perhaps you do not take his remark seriously, no more than any of us do. The President has established under this Bill a Guarantee Fund. Under previous Acts it came out of the Agricultural Grant. Very well, if it comes out of the Agricultural Grant, then it cannot come out of the Guarantee Fund.

The PRESIDENT: I see that the Deputy does not quite understand. There is, first of all, the Agricultural Grant. There is a period of suspense during which it is not known whether or not this particular Fund will be called upon to discharge any sums to make up the unpaid Land Commission annuities. Before it is made available for County Councils at all the money passes through a Guarantee Fund into the compartment I have mentioned, the box or the fund, or any other means of keeping it for the time being. While the Land Commission annuities are in jeopardy that sum is locked up and the County Councils cannot get it.

Mr. CORISH: Even if one county has completely paid its annuities?

The PRESIDENT: I should say so. When the time comes to release that in order to make up the difference the box is emptied. It must again be paid, and it will be paid when the Land Commission annuities are paid, but until that a consequential delay occurs, and there is no means of filling the box until the

[The President.] annuities are paid. When they are paid then we discharge at once. So far as I know there is no unreasonable delay in emptying that Fund once it is made good.

Mr. CORISH: Surely if a County Council, or two or three County Councils interest themselves to the extent that they would try to get the annuities paid, they should get some encouragement?

The PRESIDENT: So far as I know, they do, but there may be cases where, if three or four counties do not pay, practically the whole of the Fund may be in jeopardy. If there be a particular county in which no annuities have been paid at all, then that county will get nothing. I do not think the Deputy ought to press that amendment.

Mr. GOREY: I withdraw the amendment, not to evade it, but to enforce payment, in order that the Government may be more energetic. We do not want to evade anything. We want to have it paid.

Mr. CORISH: Deputy Gorey raised a very good discussion.

Mr. GOREY: It has been going on for years.

Mr. DOYLE: To back up that argument I may say that we go so far in Wexford that we get a list of those who are not paying their annuities and publish them in the newspapers.

The PRESIDENT: That is right. I admit that.

Amendment, by leave, withdrawn.

Motion made and question put: "That Section 11 as amended stand part of the Bill."

Agreed.

Sections 12, 13, 14 and 15 put and agreed to.

SECTION 16.

(1) In the case of every holding to which this Act applies, rent and arrears of rent accrued due up to and including the gale day next preceding the date of the passing of this Act shall not be payable by the tenant, and no proceedings against

the tenant for recovery of arrears of rent shall be begun, continued or enforced after the passing of this Act. There shall be payable by the tenant to the Land Commission a sum hereinafter referred to as "compounded arrears of rent" ascertained as provided in the sub-section following.

(2) Compounded arrears of rent shall be a sum equivalent to the total rent and arrears of rent due on the gale day next preceding the passing of this Act in respect of rent accrued since the first gale day in the year 1920 less a deduction of 25 per cent. In any case where a hanging gale is customary any payment of rent shall be deemed to have been made in respect of the gale next after the gale in respect of which it was actually made.

(3) Compounded arrears of rent shall be payable as to so much thereof as does not exceed 75 per cent. of the annual rent, immediately after the date of the passing of this Act, and as to the balance, if any, on such date or dates before the appointed day as may be prescribed by the Land Commission.

(4) Compounded arrears of rent shall be collected and accounted for to the person or persons entitled thereto by the Land Commission in accordance with rules made by them: Provided that the Land Commission shall when paying over the amount collected first deduct therefrom income tax and such sum to go towards costs of collection as the Land Commission consider reasonable and proper.

Mr. GOREY: I beg to move this amendment:—

In Sub-section (1) to add after the word "Act" the following:—"And any sum, including costs and expenses, which has been levied or recovered under or in consequence of any such proceedings begun, continued or enforced between the 28th day of May, 1923, and the date of the passing of this Act, in excess of the sum hereinafter referred to as 'compounded arrears of rent,' shall be deemed to have been overpaid by the tenant and shall be set off against the moneys to become payable by the tenant to the Land Commission in lieu of rent, as hereinafter provided, and the equivalent payment of the Land Commission to the landlord shall be proportionately reduced." This amendment is in order to give

effect to the demand that I made on the Second Reading, and to the promise made by the Minister. Since the Second Reading things have not mended. On last Thursday I saw a judgment asked for and decree given on behalf of a landlord named McArthur against a tenant in County Dublin. On Tuesday last two bailiffs were sent into the house of a farmer named O'Neill, also in County Dublin, at the instance of a landlord named Caulfield. Two or three seizures of cattle have been made in County Tipperary against unpurchased tenants. I will not refer to the numerous cases that occurred previous to the Second Reading of the Bill, but they have been numerous and they have been all over the country, and I think it would be a national shame if this Legislature that proposes to deal honestly between man and man and section and section were to allow a few people of any particular section to get at the back of the Bill, to get in front of their neighbours, to get in front of the people of their class and do what I cannot regard as anything else but a crime against the State and a crime against the intentions of the Legislature. The Bill provides for nothing but to put these people on the same level as the rest of their kind, but they tried to evade the Bill. There is nothing unreasonable in this Amendment, and the promise of the Minister confirms us in this view. It is only just, equitable, and right.

Mr. HOGAN: I do not propose to accept the amendment in that form. What I said the other day, I think, in answer to a question by Deputy Gorey, was that if it became clear that there was a policy amongst the landlords to get in in front of the Bill, I would put in a provision in the Bill making it retrospective so far as rent was concerned as from the date of the introduction of the Bill. Retrospective legislation is absolutely unsound except in very special circumstances. I think the Dáil will agree with that, and it would be necessary to have very special circumstances, such as a general policy on the part of the landlords to negative the arrears provisions in the Bill, before we would be justified in legislating retrospectively at all. Now, there has been no such policy. First of all, the Dáil should remember that this section is only affected by decrees that have been enforced. It makes no differ-

ence to a tenant if a writ has been issued, or if legal expenses have been incurred before the passing of this Bill, provided that the decree has not been enforced. If a writ is issued, judgment marked, and everything ready for the enforcement, but no enforcement or execution takes place, and the Bill passes while that state of affairs is in existence, then the landlord only gets his compounded arrears of rent. There is no question of costs or expenses. Let us not confuse the issue by dealing with writs that have been issued, and judgments marked, and legal expenses incurred.

Mr. GOREY: We are not dealing with that at all.

Mr. HOGAN: The Deputy mentioned that he saw three or four cases where judgments have been marked.

Mr. GOREY: I said nothing of the sort.

Mr. HOGAN: The Deputy quotes cases.

Mr. GOREY: I quoted one particular case where judgment was marked. I quoted another case where the bailiffs were sent into a man's house, and I quoted two other cases where cattle were seized. I quoted only one case where judgment was marked.

Mr. HOGAN: So I am right, the Deputy did quote a case where judgment was marked. I am entitled to disabuse the mind of anyone who has not had the advantage of Deputy Gorey's knowledge on this subject that these provisions are not affected in any way by proceedings that have not been executed, by the fact that writs have been issued and judgment marked, provided that they have not been enforced. Let us stick closely to the decrees that have been enforced. I have returns that in 75 per cent. of the counties not a single decree for rent has been executed. The Deputy knows that. He will not contradict that, and he is capable of a good deal of contradiction at times. I am sure if I looked into the figures I could say more than 75 per cent., but I will put it now at 75 per cent. There have been only one or two decrees executed on an average in other counties. I think Galway is the highest, and there were seven there. I suppose there are

[Mr. Hogan.]

at least 1,000 cases where rent is due for the last two years. Let us be fair to landlords. I do not say what their reasons were, but as a class they have not executed decrees. That is a fact, and the talk about execution of decrees and putting the farmer out of his home, all this loud talk that would give the impression that evictions were taking place all over the country, has simply no relation to the facts.

Mr. GOREY: Nobody said evictions were taking place.

Mr. HOGAN: They are not, and what is more, all this loud talk as well about what the farmers would do if we tried to execute decrees does not impress us a bit. Landlords have not tried to execute decrees, and there is no use blustering about it. We will not discuss the question of what we would do if we tried. It would lead nowhere. It is absolutely unsound to say that a man should not take advantage of his legal rights while these legal rights are in existence. A man is entitled to take advantage of his legal rights while they are in existence, and a man is not entitled to assume that every Bill that goes before the Dáil will be passed. As a general principle I think that is sound. I hope a good many Bills will be introduced into the Dáil between this and the disappearance of the Irish nation from the face of the earth that will not be passed, but the mere introduction of a Bill does not hold up a man's rights at all, and as a corollary from that it is unsound to legislate retrospectively. We cannot close our eyes to the fact, and I want to put this seriously to the Dáil in the interests of justice, that we are dealing at least with about 10 per cent. of landlords who are pulling the devil by the tail, who are in an extremely bad way, who perhaps are owed two or three years' rent, and who I know as a matter of fact, if the mortgagee came down on top of them—and the mortgagees have a great many inducements to do so—and forecloses he gets the whole estate, and he probably makes a bit out of the sale of the estate. Many of the mortgagees are fully alive to that, and everyone here knows as well as I do that at least ten per cent. of the landlords who have not a penny, and whose mortgagees are pressing them, are in a des-

perate position, whatever the reasons may be. That is the present position, and I think it is only fair to assume that the small percentage of decrees that have been executed have been executed by landlords of that sort. That is only a fair assumption.

Mr. GOREY: It would be, if you did not know the facts.

Mr. HOGAN: Let the Deputy give us different facts. You may get a landlord who will execute a decree out of pure cussedness. I am talking about the general body of landlords who have not executed decrees as a body, and where they did execute decrees it is only fair to assume that they did it absolutely under compulsion of their own creditors, and that they had no alternative but to let in their mortgagees to foreclose and get the estate. Hence, all the equities are not on one side, if you take the facts and leave out the question, for the moment, whether the landlords have even an academic right to their rents—take the circumstances as you find them. Any fair-minded man—even Deputy Gorey himself in his cooler moments—will agree with me that there is a certain amount to be said on both sides in all the circumstances, in view of the fact that so few decrees were executed, and in view of the fact that there are so many landlords absolutely on the rocks. Now, on the other hand, though I am doubtful of the wisdom and justice of doing it, I will go this distance with the Deputy—I will agree that any rent paid since the introduction of the Bill should be adjusted and should be appropriated towards the payment of arrears under the Bill. I will not agree that the costs should be recovered. This is purely a bargain, and I put it forward as a bargain. The landlord who had to execute his decree did not get ready money, and it is not such a hardship upon him. Let us take a case, say, where the rent is £100, and that that has been recovered. The arrears would be £75, so that that sum of £100 can be appropriated towards a year-and-a-quarter instead of a year. It would not mean payment in money; but to recover the cost from the landlord now, in a great many cases, would really be looking for blood out of a turnip. So I go this far with the Deputy—and I think it is a fair proposition, in all the circum-

stances—I will agree to accept an amendment in this form:—

“ Any judgment or decree obtained in any proceedings against the tenants of a holding to which this Act applies for the recovery of rent or for the recovery of the holding for non-payment of rent after the 20th day of May, 1923, shall be vacated, and if any rent, or arrears of rent, shall have been levied or recovered under or in consequence of any such judgment or decree in excess of the sum to which compounded arrears of rent would have otherwise amounted, the amount of such excess shall be set off against the moneys to become payable by the tenant to the Land Commission in lieu of rent as hereinafter provided, and the equivalent payment by the Land Commission shall be proportionately reduced.”

That leaves out the costs, and deals with the rent only. It is a sporting offer, and I hope the Deputy will accept it.

Mr. GOREY: This may be a sporting offer, put forward by the Minister on behalf of the landlords who have sent out these writs, but there is nothing sporting about it for the people against whom the writs have been issued. The Minister began by telling us that if it was the policy of the landlords to issue these writs he would accept the amendment.

Mr. HOGAN: To execute their decrees, I said.

Mr. GOREY: If it was wrong as a policy, how can the Minister justify it in the case of the individual? If it was wrong for the landlords, as a body, to take this action, how can it be right for the individual to do so?

Mr. O'CONNELL: When does it become a policy?

Mr. GOREY: If the policy is wrong, the act of the individual is wrong, and therefore cannot be justified even by the flippancy of the Minister. To my mind the Minister is merely clapping on the back the individual landlord who has enforced his writ. He has done more; he has actually issued an invitation to all the landlords who have a judgment marked to enforce that judgment between this and the time the Bill becomes

law. He is really issuing an invitation to the landlords to go on and enforce their writs and that at least they would get their costs.

Mr. HOGAN: The solicitor would get the costs.

Mr. GOREY: It does not matter who would get the costs, because the costs do not begin to mount up until the Sheriff goes out. I want to have the Minister's reasons as to why the individual is right, and the general body of the landlords wrong. The Minister made the statement that the issuing of writs did not operate in 75 per cent. of the cases. We have only 26 counties, and in the counties of Cork, Wexford, Carlow, Kilkenny, Meath, Tipperary, Galway, Dublin and Donegal writs have operated. It does not matter if the Sheriff had not to go out, but I can produce Sheriff's letters and threats, and the Minister can produce some that I handed to him. It is perfectly true that in these counties writs have been made good, even though the soldiers were not actually called out to assist in their execution; the writs were made good by terror and threats. It is true in the case of one landlord that he was driven by his creditors to take action, and it was about time that the creditors drove him. That was the case of Leader in Cork.

Mr. HOGAN: That is the man who keeps greyhounds.

Mr. GOREY: No, he trains grey hounds. In Kilkenny, Wexford, Galway, Carlow and Tipperary the writs were made good by landlords who were not in want, but they did it through pure cussedness and malignity. I admit that the Cork case was a pressing case, but none of the others were. I have made myself acquainted with the particulars in all these individual cases, and I can say that the Minister's contention about creditors pressing falls to the ground absolutely except in the Cork case.

The Minister has made an offer to adjust the rents, but what about the costs? The costs, once the soldiers are sent out, are practically in all cases much in excess of the reduction that the tenants would get. In almost all cases you would have a small rent with big costs. I repeat that, except in the Cork case, the making good of these writs was done through pure malignity and cussedness. This is

[Mr. Gorey.]

the sort of thing that the Minister claps on the back, the class of individual landlord who has created chaos in the country for generations, and who, because of his actions in the past, has made it necessary for the Government to introduce a measure of compulsory land purchase. That is the class of individual who has been the curse of this country for generations. I am not satisfied, nor are my people satisfied, with the amendment which the Minister has suggested we should accept. I hope Deputies in the Dáil who represent agricultural districts in this country will not follow the Minister's lead, but will speak out on behalf of the people they represent. I propose pressing my amendment to a division, no matter what alternative amendment the Minister may bring in.

Mr. LYONS: If Deputy Gorey presses his amendment to a division, it is my intention to vote for it. At the same time I would like to remind the Deputy and his Party that when the Bill giving the Sheriff power to bring out the military to execute decrees against tenants for the arrears of rent was going through this Dáil, they voted for it. It was only yesterday they gave their support to what is known as the Flogging Bill, and now they speak as if they regretted having done so. I think Deputy Gorey's amendment is an honest one, and for that reason I intend to support it. I stood up merely to remind the Deputy, in case he should forget it, that he voted for the Bill which gave the military power to go out and seize cattle. I am sure he regrets that now.

Mr. DOYLE: I regret extremely the attitude taken up to-day by the Minister for Agriculture. Listening to his speech to-day and to the speech he delivered on the Second Reading of the Bill, one would be almost inclined to think that it was not the same man who was in it at all. In my opinion, his speech to-day is an invitation to the landlords to do their utmost against the tenants. The landlords actually have the machinery ready, and it seems to be an invitation to them to put it in motion against the unfortunate tenants. On the last day he more or less told us that he would bring in a clause somewhat on the lines of the amendment put forward to-day by De

puty Gorey, but, judging from the speech he has just delivered, he wants now to get the whole lot of the landlords throughout Ireland to enforce their decrees.

Mr. HOGAN: What I suggested was that I would accept an amendment by Deputy Gorey if it proved to be the policy of the landlords to execute decrees and get in before the Act. I said that in these circumstances I would make the terms of the Bill retrospective as from the date of its introduction, and that is exactly what the amendment I have read does. I have not been guilty of any deceit, as, I think, has been suggested.

Mr. DOYLE: I never mentioned the word "deceit." You say you would do that if it proved to be the policy of the landlords. From my experience, a considerable number of them have made it their policy to get writs executed.

Mr. HOGAN: How many of them?

Mr. DOYLE: I did not interrupt you. I say that many landlords are getting writs executed in several parts of Ireland. Deputy Gorey gave the Dáil several examples. In my opinion, the arguments of the Minister for Agriculture put forward in the Dáil to-day will be a great incentive to landlords to execute the decrees they have broadcasted all over the country. I do not care what the Minister himself may think, but his attitude to-day towards this amendment is altogether different to what it was on the Second Reading of the Bill. He has put up the case of the impoverished landlords from the North to the South, but he never mentioned the cases of the impoverished tenants—not a single one. I say, with all due respect to his impoverished landlords, that there are many tenants vastly more impoverished than the landlords, and they have got absolutely no way of making a living. The depressed condition of the agricultural industry for the last two years has left many a tenant in a very impoverished state indeed. I do not care how hard set a landlord may be, his position cannot be near as bad as that of an unfortunate tenant. I am certain you would find very few landlords lying hungry in nooks and corners around Dublin, but I can assure Deputies in this Dáil that there are many tenants in that position.

Mr. O'CONNELL: I think a very fair case has been made out in favour of this amendment by the Deputies on my right. I have listened carefully to the reasons given by the Minister for Agriculture for his refusal to accept the amendment, and I must say they do not convince me. He has stated that if he discovered it was the policy of the landlords as a body to get in before the Act he would take measures to prevent that. I confess that is all the more reason why he should take those measures. If there were only two or three, or even a dozen, who must be the very worst of the landlords, that is all the more reason why they should be restrained, and why they should not be allowed to get the benefits. There are some benefits to be got—benefits which the more decent of the crowd refuse to take advantage of. I think that is all the more reason why Deputy Gorey's amendment, as it stands, should be accepted.

Mr. WILSON: I must confess that I read into the Minister's speech, and I generally read aright, that his statement here in the Dáil carried costs. I read that into it, and I saw a letter from a very high-class solicitor to tenants telling them to tender their rents, less 25 per cent. At the top of the letter the Minister's statement was quoted, to the effect that the amount claimed would include costs. I have here a case where one and a-half year's rent was collected, and the costs amounted to £60. If the landlords through the country begin to collect these rents, and act as in the cases I have mentioned, the costs will really amount to as much as rent. Having regard to what was said on the Second Reading, and having regard to what the solicitor read into the Minister's statement in the Dáil, which was quoted in the letter I referred to, that costs were included, I think a very good case has been made for Deputy Gorey's amendment.

Mr. JOHNSON: I think the case made by Deputy Gorey and his friends is a convincing one, and is also a very moderate one. After all, the object of this Bill has been before the Dáil for quite a long time—long before the 28th May—and where actions were taken and costs incurred on processes up to the 28th May, that must have been done with the in-

tention of getting an advantage over the tenants before this Bill came into operation. They knew the Bill was coming, and knew it would be compulsory. They knew it would be compulsory, provided they did not agree, ultimately. They knew there would be compulsory purchase in the absence of formal agreement, and that to me is pretty convincing that when a landlord adopted the policy of proceeding in the Courts he was trying to take advantage of the interregnum. Now, it may be that the Minister does not care to legislate retrospectively. That is what he has said, and he has a very good precedent, but there is no good reason why in this case the principle of the moratorium could not have been enforced. I think Deputy Gorey's amendment ought to be supported, and I propose to vote for it.

Mr. HOGAN: I have seldom listened to as much patent humbug as I have heard from the Farmers' Party this evening. I heard Deputy Doyle get up and work himself into a passion, and more or less suggest that I was running away from the terms I had promised some time ago. I think the whole tone of Deputy Gorey's speech was to that effect also, but the climax was reached when Deputy Wilson got up and said he read into my statement an intention on my part of including costs. Now, I will take the Dáil into my confidence. I discussed this matter with the Farmers' Party. I discussed it with Deputy Gorey, and I told him, not once, but twice or three times, that I would not include costs in any retrospective legislation if I accepted such an amendment. So that all these mock heroics, all this simulated anger, is mere bluff. It would suit me to get up and talk about half-starving tenantry, like Deputy Doyle—there is nothing so easy—the poor fellows that are lying in corners and I do not know what other places he mentioned, and who have not the price of next morning's breakfast. I could do that as well. Every member of our Party could get up and carry out the same performance and, I suppose, get the same advantages from it. I do object to patent humbug of that sort after I had discussed this amendment and made it perfectly clear that I was not going to accept an amendment including costs.

Mr. WILSON: The Minister never said a word to me about that—absolutely never.

Mr. HOGAN: That is quite correct.

Mr. WILSON: I had one of the most eminent solicitors in Ireland reading this statement, and he said that that would carry costs.

Mr. HOGAN: That is quite correct. I did not see Deputy Wilson, but I discussed it with Deputy Gorey.

Mr. GOREY: On a point of explanation, I contend that what the Minister has said is an absolute falsehood.

DEPUTIES: Withdraw.

Mr. GOREY: I withdraw the word "falsehood," but it is not true.

Mr. HOGAN: I do not know whether that is in order.

Mr. GOREY: When I stand up I will give it a flat denial, and I will give an explanation.

Mr. HOGAN: Is the Deputy entitled to state that what I said is untrue?

AN LEAS-CHEANN COMHAIRLE: It would be better if the word was not used.

Mr. GOREY: What word will I use to express a fact? If the Minister will supply me with a word to express a fact I am ready to use it.

Mr. DAVIN: Secret diplomacy.

Mr. HOGAN: A terminological inexactitude. I will leave it at that. I will not enter into the question any further. I will leave it to the Dáil. I am inviting the landlords to go ahead, notwithstanding my statement that "Any judgment or decree obtained in any proceedings against the tenants of a holding to which this Act applies for the recovery of rent or for the recovery of the holding for non-payment of rent after the 20th day of May, 1923, shall be vacated, and if any rent, or arrears of rent, shall have been levied or recovered under or in consequence of any such judgment or decree in excess of the sum to which compounded arrears of rent would have otherwise amounted, the amount of such arrears shall be set off against the moneys to become payable by the tenant to the Land

Commission in lieu of rent." That is the invitation to the landlords to go ahead. If Deputies think that is an invitation to landlords to go ahead I am sure I could not convince them. But the plain meaning of it is, and the intention is, that any rent that is recovered now will be adjusted later on, and the tenant will get the credit for anything which he has paid over and above what he should have paid under the Bill. I made the point before, and I make it again, that only an extremely small proportion of the writs that have been issued have actually been executed. I had the lists from the Sheriffs, and I read them out to Deputy Gorey and other Deputies at a meeting which I had with them. Deputy Gorey is as good a judge as I am, having seen these returns, as to what the exact proportion is. I have not them with me at the moment. The returns I had at that time were dealing not with writs issued or writs that had been executed since the 28th May, but writs that had been executed this year. Only an extremely small percentage were executed, and in most of the counties no writs had been executed at all. So there is no question about it. There was no policy. As a matter of fact, in spite of all these mock heroics and of all these appeals for the poor impoverished tenants, for whom I have just as much sympathy as the people who talk so loud, there has been no such policy. That is the fact. That is the truth, and it is right that the truth should be stated even where it does not suit. It is a fact, and every man who thinks out the question for himself and looks at the question squarely and does not deceive himself about it, knows it is a fact that the likelihood is that in the few cases where writs have been executed they have been executed by landlords whose mortgagees have been pressing them. That is a fact, and any amount of mock heroics will not hide it, or any amount of talk about the impoverishment of the tenants will not hide it. I do not know what we ought to be afraid of. I do not see any reason for it. The time has passed when it was necessary to get up and do a certain amount of tub-thumping. If we want legislation passed we have our own Parliament now; we are not dealing with an English Parliament with a Tory majority. We can pass any Act we like. There is no occasion to make misstatements in order to get an

Act passed—none whatever. The fact is, the truth is, the equity of the case, if anyone cares to look at it, is this, that it is only right to assume that in the few cases where writs have been executed it is by reason of the fact that their mortgagees have been pressing these particular men. These two facts, apart from any histrionics, bear examination, and I invite any Deputy who disagrees with me to examine them and to show that they are wrong. If they are wrong, then let us alter our policy, but if they are right let us base our policy on that. I say that these facts are facts, and are there. In order to meet the case—it is purely a bargain—I made an offer to Deputy Gorey to accept that amendment as a pure matter of expediency. Any Arrears Act is a matter of expediency. You cannot treat an Arrears Act in the same way that you would treat any other Act. The legislation connected with an Arrears Bill has always been based on a question of expediency. We all know that. We can chop and change and discuss that, and draw deductions from it, but that is the fact. We were trying to make a bargain, and when you are dealing with arrears you do it on the same principle that you make any other bargain. I want to make a bargain. The Government regard themselves here as the trustees of fair play in the matter, and to my mind the facts which I have stated represent fair play, and no amount of histrionics will alter the facts.

Mr. McGOLDRICK: I am satisfied that the proposal that the Minister has made is one that, as far as possible, meets the equities of the case put forward on behalf of the tenants. I am sure that the Minister, like other Deputies here, is in sympathy with the claims put forward on behalf of the tenants. He has had that sympathy all through his career, as most of us here have had, and that sympathy would lead him to go as far as he possibly could, in the circumstances of the case, to meet the claims of the tenants. But, at the same time, he is confronted with the position of the landlord who is beset by incumbrancers and who is being pressed by them. In these circumstances he has got to consider the equities of the situation, seeing that the landlords are now being handed over to the State without anybody to look to for sympathy, and are supposed to be out of touch with things as they are at present

in this country, and to have no means by which they can get their side of the case considered. Unfortunately in the past the landlords had all the weight and all the influence, and were able to order and direct in whatever way they liked the destinies of the tenants under their control. Now the position is reversed, and we are placed in the position which the landlords formerly occupied. The question for the Minister then is, is he to pursue the same policy that they pursued in the past? I think he cannot consistently or logically pursue that system, and I think he has gone as far as he possibly could. Undoubtedly some landlords who have not been beset by incumbrancers have pressed recently.

Mr. GOREY: And you stand up and defend them.

Mr. McGOLDRICK: I know of instances in the county I represent where landlords have pressed without being forced by stress of circumstances. Unfortunately they are landlords who reside in another area that at present is not acting in co-operation with us, and who thought they saw an opportunity of giving vent to the sympathy which they have for that area and the aversion which they have for our area by acting as they did.

Mr. GOREY: And you backed them up.

Mr. McGOLDRICK: I did not back them up. I believe that the proposal the Minister lays down, that from the 20th May any such action taken, decrees enforced, sought or obtained will be adjusted, and that whatever money is received on foot of these decrees will be on the condition that the tenants will get the full benefit as if they were not decreed at all, is a very fair interpretation of the situation, and that the Minister has gone as far as he could. We would all wish that landlords had not the power to execute decrees to recover money. There may be instances, however, where, unfortunately, it would be necessary. With a great number of tenants it has not been necessary, as they have done their best to meet their obligations, and it is only when force of circumstances prevented them that they held back. Some of the tenants unquestionably are deserving of our sympathy

[Mr. McGoldrick.] and consideration, but others amongst them are people who took advantage of the situation, and they are not in sympathy with us or with the nation. I think the Minister has steered a course so as to meet the situation all round. I think the farmers, if they persist in an extreme view, are not guided by the requirements of the situation or by the real merits of the case. That is not advisable in an Assembly like this, where every member should feel some sense of the responsibility that is placed upon him, apart from his predilections, and should take into account all the circumstances and not be guided by one side only. I think the Minister has met the case in a very fair and reasonable way.

Mr. GOREY: I have only one regret in connection with this debate, and that is that the Minister and I have two distinct views or recollections of our interview on this matter. It is true that I met and talked to the Minister confidentially.

Mr. HOGAN: Not confidentially. I met a deputation, but there was nothing confidential about it. Otherwise I would not state it here.

DEPUTIES: Withdraw.

Mr. GOREY: I will not withdraw. I have heard the words "secret diplomacy" flung across by Deputy Davin, from whom we are in the habit of having remarks flung at us.

Mr. DAVIN: On a point of order, I did not fire anything at the Deputy.

Mr. GOREY: We had a talk with the Minister about this matter of having the Bill made retrospective with regard to over-payment, and also with regard to costs. If no other member of the Farmers' Party or the Unpurchased Tenants' Association accepts responsibility, I will accept responsibility. I have spoken to the Minister about it.

Mr. HOGAN: On a point of order, it might be well to clear this matter up. Deputy Gorey used the word "confidential." I want to make it clear that I am not in the habit of revealing confidential conversations. I am quite sure he did not mean that. Deputy Gorey, and I am sure other Deputies, as well as

members of the Farmers' Party know that I met a deputation from the Unpurchased Tenants' Convention, and discussed this question with them without any reserve of any kind and without any confidence.

Mr. GOREY: Quite right. It was representatives of the Unpurchased Tenants, and not representatives of the Farmers' Party that met the Minister. The Minister never gave me a flat denial about the question of costs.

Mr. ROONEY: We want to make it quite clear that we had no interview with the Minister.

Mr. GOREY: The most the Minister said was that he did not think it would be fair to preclude men from taking advantage of the law that they would be entitled to take. He thought the question of costs would be extreme. I thought I convinced the Minister that he should adopt a reasonable view of including the costs. I was convinced when proposing this amendment that he would have accepted it, not only for over-payments, but for costs also. When I put it down I was not inspired by extravagant statements or wild claims. I brought the amendment up to the most reasonable point, and that was the date of the introduction of the Bill. That should be sufficient warning to any landlord, whether he was encumbered or whether he was driven by creditors or by those who lent him money. I did not make any extravagant claim, but confined myself to the last possible date, May 28th, which this could date from. I have no regrets or recantations to make as to the attitude I took up with regard to the Public Safety Act. What I did then I would do again. Our Party would not question this matter at all, only to make their position clear. Deputy Lyons probably was not here at the time, or I do not think he would have referred to the subject. We hear too much about impoverished landlords. A good many Deputies talk for political reasons, and not on the merits of the case. I am surprised that men who know so much about the circumstances should go out, including Deputy McGoldrick, who has now gone to the Lobby. Probably other Deputies will come back and vote on the Division after listening to the speeches beyond in the bar.

Mr. HUGHES: I think that statement should be withdrawn. This thing is going too far.

AN LEAS-CHEANN COMHAIRLE: I think you ought to withdraw that expression.

Mr. GOREY: I will withdraw the remark about the bar.

Mr. HUGHES: A statement of that kind should not be made here. The Deputy should be ashamed of himself.

Mr. GOREY: I say that Deputies who are going to vote should be here to listen to the arguments. There is 100 per cent. of our Party here.

Mr. HUGHES: It should be said in a decent way.

Mr. GOREY: It does not really matter about the way. We have been listening to too much of this kind of machine talk, when Deputies who hear nothing of the debate come in and vote.

Mr. HUGHES: They know enough.

Mr. GOREY: They do not know enough.

AN LEAS-CHEANN COMHAIRLE: Order.

Mr. GOREY: If the Deputy will conduct himself so will I.

Mr. HUGHES: I know how to conduct myself, and when I am finished with Deputy Gorey he will know how to conduct himself. I will not take lessons in manners from him.

Mr. GOREY: I am not a bit impressed by the argument of the Minister about these landlords, because with the exception of one man I know that they are not impoverished. I have personal knowledge of the facts. A certain section of these landlords go and take advantage and enforce these decrees after the introduction of this Bill. Why should they be let off scot free, and why should the others be in a worse position? Why should one law apply to the men who have executed decrees and another law apply to the men who have not? The men who have executed these decrees are the cream of the bad ones. If this is a question of costs, it is a big thing for some tenants, because you have the most vindictive of the landlords—men like Dobbyn, of

Waterford, men who have gone into the Bankruptcy Court and heaped costs upon the tenants, which is quite different from going into the Civil Courts. These are more serious matters perhaps than the Minister considers. But the facts are there; I do not think that we are unreasonable in this amendment. As a matter of fact, I think we brought it down to the last date to which we could bring it down. It is absolutely reasonable. It is not for political reasons we are pressing this amendment. It is for pure justice. A certain element in the State has endeavoured to evade the Legislature, and we ask the Dáil to penalise them for that meanness and for endeavouring to get at the back of the Bill and the back of the common law. I do not think we are unreasonable. These men did what they did with their eyes open. I do not think that it is just that they should be permitted to evade the law. It is not reasonable. It is not for the purpose of politics that this amendment has been put up; it is in the interests of justice between man and man that I press this amendment.

Mr. ROONEY: I do not think that there is anything unreasonable in this amendment or anything that ought prevent the Minister from accepting it. There is nobody knows better than he does the position with regard to the farmers and agriculture. You have it in the evidence that has been put before us in the Agricultural Commission. If you take up *Stubb's Gazette* you will find lists of farmers there, and you have lots of the tenants in a more impoverished state and unable to meet their liabilities than the landlords. There was another case made by the Minister that there were only a few cases of tenants in different districts in which seizures had been made. Of course, there were only a few seized, but these would be seized to intimidate the remainder of the tenants in the districts.

Mr. McGOLDRICK: I was not here when Deputy Gorey was speaking, but I have been informed of the friendly references made by him. I must say that I do not measure my sympathy for the tenant farmers of Ireland, or my knowledge of the land question, by all that was said by the Deputy who has blatantly given forth on his right to pronounce upon the capability of any other Deputy here, or upon his right to do as he thinks

[Mr. McGoldrick.]

proper in the interests of his constituents. With regard to Deputy Gorey's references to visits to certain places—

AN LEAS-CHEANN COMHAIRLE:

There is no necessity to revert to that.

Mr. CORISH: Are we debating the Land Bill, or is it something else we are debating?

Mr. MCGOLDRICK: I am making a reply to Deputy Gorey on a reference, I have been informed, he made.

Mr. GOREY: Not about you.

Mr. DAVIN: On a point of order, the Deputy who is speaking now is referring to a matter which happened when he was not here. Is it right that he should go into that?

Mr. MCGOLDRICK: I have been represented, I understand, as having known about the position of the impoverished landlords.

AN LEAS-CHEANN COMHAIRLE:

I think it better to let the matter drop, because any reference the Deputy made that was uncomplimentary has been withdrawn by him.

Mr. MCGOLDRICK: I wish to say that I do know about the impoverished condition of the landlords as well the tenants, and Deputy Gorey knows them too as well as I do. He knows the value of investments and how they have depreciated. His sympathies are like our own, with the tenant. My sympathies are with the tenants too, but that does not compel me to overlook all things else. I have to consider all the merits of the case. I consequently stated that I believed the Minister has met the situation in a way that seems to me to be just and equitable, and in that way I am prepared to accept the Minister's recommendation and to vote against this amendment of Deputy Gorey, seeing that it is not in any sense proportionate to the equities of the case at the moment, and that it cannot have any chance of being accepted.

Mr. HOGAN: Apparently there has been considerable misunderstanding about this matter, and, possibly, other people may be in the same case as we

have been. I certainly never believed that I had given the impression to anybody—I am not talking now about the Dáil but outside—that we would not only recover from them any rent which they had recovered, but that we would recover the costs as well. However that impression may have got abroad, it is a revelation to me that it did. To meet that case I will make a slight modification. I will make another offer. I will change the date from the 20th May to this date. Everybody will have sufficient notice after this debate.

I will alter it to read as follows: "Any judgment or decree obtained in any proceedings against the tenants of a holding to which this Act applies, for the recovery of rent or the recovery of the holding for the non-payment of rent, after the 3rd July, 1923, shall be vacated, and if any sums shall have been levied or recovered under or in consequence of any such judgment or decree, in excess of the sum to which compounded arrears of rent would have otherwise amounted, the amount of such excess shall be set off against the moneys becoming due."

Mr. GOREY: That will be worse still.

Mr. HOGAN: It gets in any sum recovered, either for rent or costs, as from to-day's date.

Mr. GOREY: If the Minister will change the date in regard to arrears from the date of the introduction, and the date of the costs incurred as from to-day, it would be better; as it is, he is taking away more than he is giving.

Mr. HOGAN: I am not.

Mr. GOREY: We could not accept that alteration. It is between those days nearly all has been done.

Mr. HOGAN: The Deputy is perfectly free to refuse it, as I am free to refuse any amendment. My suggestion will have the effect of taking in any rent paid, or any costs, as from this date, and that will be set off against the rent becoming due as compounded arrears of rent.

Mr. GOREY: In other words, what has been recovered in excess would still remain with the landlord before to-day?

Mr. HOGAN: Yes, he has from to-

day. That is to meet the point that some of the Deputies made, that this was an invitation for landlords to go ahead and execute decrees.

Mr. GOREY: If the Minister will allow the original wording of his amendment with regard to rents recovered in excess of what is mentioned to stand in the Bill, and the recovery of costs to date from to-day, then he will meet the situation fully.

Mr. HOGAN: I can do that.

Mr. GOREY: Then I withdraw the amendment.

Mr. JOHNSON: I think this motion ought to be pressed to a division.

Mr. GOREY: I would press it if I was not in danger of losing the amendment.

Mr. JOHNSON: Chance that on the next reading.

Mr. GOREY: If I was not afraid I would lose the amendment, I would press it very quickly. I would ask leave to withdraw the amendment.

Mr. JOHNSON: I wish to divide the Dáil on this motion.

An Ceann Comhairle, at this stage, resumed the chair.

AN CEANN COMHAIRLE: Amendment 19 has not been put. Deputy Gorey, I understand, desires to withdraw it.

Mr. JOHNSON: The position, if I may say so, was that Deputy Gorey agreed to withdraw the amendment on the promise of a counter proposition. He asked leave of the Dáil and the Dáil is not unanimous in granting such leave.

AN CEANN COMHAIRLE: Then I am afraid I must put the amendment.

Mr. GOREY: In that case, I propose the amendment.

Mr. MILROY: The Deputy who proposed this amendment asked the leave of the Dáil to withdraw it, thereby breaking

the new Coalition, I am sorry to say. Must it not now go to a division in order to obtain leave to withdraw?

AN CEANN COMHAIRLE: I do not think we can have a division on the question of withdrawal.

Mr. MILROY: If the Deputy asks the leave of the Dáil to withdraw, surely the feeling of the Dáil must be taken on whether he can or not?

CATHAL O'SHANNON: Is there any provision in the Standing Orders which makes it necessary to have a majority vote for permission to withdraw an amendment?

AN CEANN COMHAIRLE: No. What really is asked for is general agreement for withdrawal. That has been the practice all the time both in the Dáil and in Committee. If it is desired to withdraw a motion which has been discussed, there should be general consent, or else the matter should go to a vote.

Mr. HOGAN: Deputy Gorey put a certain amendment which was debated, and I made a suggestion which he saw his way to accept. I have proposed to put that as an amendment, and was prepared to put it in a few minutes. Now, the position is that Deputy Gorey proposes to go ahead with the amendment.

Mr. GOREY: I cannot now withdraw. The explanation as to why I did withdraw was that I did not want the amendment defeated, and have the Section stand as it was.

Mr. JOHNSON: The position, as it appears to me, is that the Deputy has convinced me, at any rate, of the necessity of this amendment as it stands. If the Deputy withdraws it, I propose to move it, with permission. Inasmuch as there is not general agreement for withdrawal, that is the position that is created. Therefore I desire there should be a vote taken.

AN CEANN COMHAIRLE: The amendment in the name of Deputy Gorey has not been, and cannot be, withdrawn under the circumstances.

Amendment put.

The Dáil divided: Tá, 20; Níl, 36.

Tá.

Donchadh Ó Guaire.
 Seán Ó Duinnín.
 Domhnall Ó Mocháin.
 Tomás de Nógla.
 Liam de Róiste.
 Tomás Mac Eoin.
 Seán Ó Ruanaidh.
 Liam Ó Bríain.
 Tomás Ó Conaill.
 Aodh Ó Cúlacháin.

Séamus Eabhróid.
 Risteárd Mac Liam.
 Liam Ó Daimhín.
 Seán Ó Laidhin.
 Cathal Ó Seanáin.
 Domhnall Ó Muirghoaí.
 Risteárd Mac Fheorais.
 Mícheál Ó Dubhghaill.
 Domhnall Ó Ceallacháin.
 Domhnall Ó Broin.

Liam T. Mac Cosgair.
 Gearóid Ó Súilleabháin.
 Uáitéar Mac Cumhaill.
 Seán Ó Maolruaidh.
 Séamus Breathnach.
 Pádraig Mac Ualghair.
 Seán Mac Garuidh.
 Risteárd Ó Maolchatha.
 Pilib Mac Cosgair.
 Domhnall Mac Cártaigh.
 Éarnán Altún.
 Sir Séumas Craig.
 Gearóid Mac Giobuin.
 Liam Thrift.
 Eoin Mac Néill.
 Liam Mac Aonghusa.
 Pádraig Ó hÓgáin.
 Pádraic Ó Máille.

Seoirse Mac Niocaill.
 Piaras Béaslai.
 Fionán Ó Loingsigh.
 Séamus Ó Cruadhlaoid.
 Christóir Ó Broin.
 Caoimhghín Ó hUigín.
 Proinsias Bulfin.
 Séamus Ó Dóláin.
 Aindriú Ó Láimhín.
 Liam Ó hAodha.
 Éamon Ó Dúgáin.
 Pearlar Ó hAodha.
 Séamus Ó Murchadha.
 Liam Mac Sioghair.
 Alasdair Mac Caba.
 Tomás Ó Domhnaill.
 Éarnán de Blaghd.
 Unseann de Faoite

Amendment declared lost.

Mr. HOGAN: I beg to move that we report progress.

THE DAIL RESUMES.

AN CEANN COMHAIRLE: Progress is reported. When is it proposed to sit again?

Mr. HOGAN: To-morrow.

ADJOURNMENT OF THE DAIL.

SANITARY CONDITIONS OF JAILS AND BARRACKS IN WHICH PRISONERS ARE DETAINED.

The PRESIDENT: I move the adjournment until Wednesday, 4th July, at 3 o'clock.

Mr. EVERETT: I desire to draw the attention of the Dáil to the insanitary condition of the jail in Wicklow. On account of rumours the Wicklow Council directed their Sanitary Officer to inspect the gaol, and admission was refused. The reason that I bring forward this motion is that my town is a seaside resort, and we are afraid of an epidemic. I also wish to state that the most friendly relations exist between soldiers in the barracks and the civilians in the town, as also between the

prisoners and the Governor and soldiers in charge. In the interests of all concerned, an inspection should be made of the gaol, and those grievances should be removed. This jail had been condemned by the British military authorities for over fifteen years. The windows and doors are broken, so what must the inside be like? The prisoners are confined, three in each cell. Seventeen out of 103 have mattresses. The remainder of the prisoners in the cells are sleeping on the bare floor, and it is only within the last week that some straw has been brought into the prison. A number of these prisoners have been ill owing to the stench coming from the bottom cells. One is in hospital from double pneumonia, and if a death takes place it will not be in the interest either of the Government or the townspeople. The happy relations hitherto existing will cease to exist if a crisis takes place. This being a seaside resort, the people are dependent on the holiday makers who come to Wicklow. As this is very warm weather, and such a number of prisoners are confined, the matter is a very serious one. I am not aware that any Act has been passed which denies the right of the Sanitary Authority to visit the prisoners. As to the relationship between the

prisoners and the Governor, it is of the best. The prisoners cook for themselves, but, unfortunately, the food that sick prisoners require is not available. There are seventeen prisoners in very ill-health at the present time. An appeal was sent by the Commandant of the prisoners to the Governor for some extra exercise in a larger space, and also they asked for more lavatory accommodation. The water supply is insufficient. They also appealed for milk for the sick patients. The doctor, who visits the place, resides in Gorey, and at the present time a doctor should give a daily visit when the number of prisoners is so large. Out of 103 prisoners one is in hospital suffering from pneumonia, 14 are ill in bed; 24 are ill, but not in bed, and about 30 are generally unwell.

These prisoners have appealed to the Governor, but up to the present they have received no reply. While we hold the Ministers here technically responsible they may not be aware of those complaints generally, and I am sure when they are brought to their notice they will have a number of prisoners removed to a more suitable place. There are 30 of the prisoners in—merely for their political opinions—and the majority of this 30 have signed an undertaking over two months ago. One man is up to 70 years of age, and there are amongst them, young boys. I ask that those men should be released as they have signed their undertakings, and as there are no charges against them. The space for exercise is a very small one for men able to take exercise. It is 45 yards by 25 yards for a number of prisoners. We appeal to the Ministers to have an inquiry into the whole matter, and it would not only be in the interest of the prisoners, but in the interest of the town. As I have explained, we are of opinion in Wicklow that if something is not done immediately an epidemic may break out. The Medical Officer of Health said to the prisoners that he could not do much for the men who were either lying in bed or lying on the floor. He suggested to give them iodine and something else. On the 25th June an appeal was sent from the Commandant of the prisoners to the Governor.

What is bad for the prisoners is equally bad for the soldiers on guard, because they have to live in the same cells. I believe the Governor, to show

his friendship, and because of the good feeling that existed between the soldiers and prisoners, gave up his own bed to some of the prisoners who were ill. The following letter was sent by the Commandant:—

I enclose herewith a list of men who are now ill in bed and who are otherwise unwell, and I must draw your special attention to the following, which require immediate remedy, as, otherwise, I can only inform you that very many men will have their health permanently injured, if detained under existing conditions, for a very much longer period.

He goes on to explain about the lavatory and all the other things that are in a bad way. There are no washing facilities, and all the conditions tend to ill-health. I am sure it is not the intention of any man—though people outside may say otherwise—or of the Government, to injure the health of any prisoner while in their charge. I would ask them to have inquiry made in this case and to have the grievances remedied, not alone in the interests of the prisoners, but in the interests of the civil population. I am referring only to the jail in my own constituency, and when I bring forward the question, I trust that the wrongs will be righted, and that the prisoners will have little to complain of in a short time. It is impossible to improve the conditions of the jail. Under the British system prisoners were not asked to remain there over-night. If the trial of a prisoner did not come off before the County Court Judge in time, he was brought to Dublin. We do not want to treat prisoners in a way in which criminals were not treated under the British law. We should treat them in a way which would enable them to forget the past, so that each one would work for the benefit of the country in the future.

Mr. LYONS: I wonder whether I am in order or not, or whether the Deputy raised this question only in connection with the gaol in his constituency?

AN CEANN COMHAIRLE: He raised the question generally, but he confined himself to Wicklow.

Mr. LYONS: I would like to voice my opinion with regard to the visits of sanitary officers to the different jails. In

[Mr. Lyons.]

the town of Athlone there were about 900 prisoners at one time. I see the Minister for Defence shakes his head at that which gives me the impression that he disputes the figure. In any event, there were between 700 and 800 prisoners, and the space for exercise was not sufficient. The washing facilities were inadequate. General McKeon got the prisoners to be a little more careful with themselves, and through doing so, probably they have succeeded in improving the conditions. However, I would like that the Sanitary Officers and the Visiting Justices should be allowed to inspect all these prisons and see how the prisoners are being looked after. They are prisoners of the Army Council, and the Army Council must be responsible for them while under their charge. If any of these men contract disease through neglect, bad food or bad sanitary arrangements, and if they die, then there is nothing else but to accuse the Army authorities. I do not want to say harsh things, because I anticipate that in the near future the prisons in Ireland will be empty. I certainly want the Minister for Defence to release as many of those prisoners as possible.

AN CEANN COMHAIRLE: Deputy Everett did not give notice of that.

Mr. LYONS: On the question of their health, they cannot possibly be looked after in a prison where there are such numbers of them. They could be much better cared for at home. I would ask the Minister for Defence to see that visiting justices, sanitary officers and outside doctors should be allowed to visit all the jails.

Mr. EVERETT: I hope I made myself perfectly clear that most friendly relations exist between the prisoners and their guard. They have no complaint but on the question of food. In other places the treatment may be different, but in Wicklow Jail the food is of the best and their relationship with the guard is of the very best. They only complain that the food is too coarse for sick men.

Mr. CORISH: As I understand Deputy Everett, while he may have the idea of the welfare of the prisoners in mind, he has brought this matter up, not so much from the prisoners' point of view, as in

the interests of public health. Some time ago a discussion took place here on which some of us requested that the sub-sanitary officers in the various towns should be allowed into the barracks. I am still of opinion that that is absolutely necessary in the interests of public health. Apart altogether from the prisoners, the soldiers in the different barracks are living under intolerable conditions. I know that in Wexford the medical officer attached to the barracks resigned because of that fact.

AN CEANN COMHAIRLE: "The sanitary conditions of jails and barracks in which prisoners are detained." Now, Deputy Corish succeeded himself one evening in getting a very strict ruling on this question, and if it hits Deputy Corish now he must be satisfied.

Mr. CORISH: I quite understand that, but if the soldiers and prisoners are in the one barracks, I think I can raise this matter. I think if I can prove that, in consequence of prisoners being housed in barracks, it is not beneficial to the health of the soldiers, I will be in order in raising it. Some time ago, as I said, the medical officer attached to the Wexford unit resigned because some of his representations in connection with this matter were not listened to, and the sanitary arrangements were not, according to what he thought, in the interests of public health. Another doctor was appointed and there was no more about it. If the sanitary officers appointed by the councils were permitted to visit barracks and prisons this sort of thing would not go on, and I say again that it is in the interests of public health that these people should be allowed in. During the period which we have gone through, officers and people in charge of barracks were not able to give the attention to these matters that they required. That is quite understood. But if you have visits from sanitary officers these things could be attended to. The English Government used to permit their barracks to be visited by the sanitary officers, and I do not see any reason why the Irish Government, which ought to be more interested in public health, would not do the same. I would press this point again and hope that the Minister for Defence will reconsider the matter from this point of view, and allow the sanitary officers to visit the barracks.

Mr. O'CALLAGHAN: I would suggest to the Minister for Defence that if he released all the prisoners it would relieve congestion in the various jails and he would save himself a lot of trouble.

General MULCAHY: There are such a large number of prisoners that we are necessarily restricted in our accommodation for them. The Government has spent a very large sum of money in providing suitable and adequate accommodation. If there are any places in which prisoners are housed in anything like unsuitable conditions it is principally as a result of the shortage of accommodation produced by the destruction carried out by the prisoners themselves in other places. Wicklow Jail would not be used for prisoners but for that particular destruction. We are quite aware of the unsatisfactory condition of things existing in Wicklow Jail. The matter has been under special observation and investigation by us, and it is not proposed to continue it as a prison. An idea of the shortening of accommodation for prisoners produced by destruction by prisoners is given by the figures which I have here. In Newbridge damage to the premises was £8,500; at Maryborough damage to the extent of £5,500 was done; at Mountjoy to the extent of £9,000, and at Hare Park Camp to the extent of £130.

As I say there are places where the present conditions are not ideal. Just as the conditions in Wicklow are not ideal for the prisoners, neither are the conditions in Wicklow ideal for the troops. We want to give as little as possible unnecessary inconvenience in taking buildings from the people generally, and Wicklow Jail being there, we have made the best use of it up to the present, and it has not been satisfactory, but we could have provided better accommodation for the prisoners there if this particular destruction had not taken place. We are, at the present moment, clearing out for the purpose of handing them back to the civil authorities certain of the jails. For instance, Waterford Jail has been entirely cleared out yesterday. The greater portion of Mountjoy has been evacuated also, and it is proposed to clear in a very short time Limerick Jail. The necessity for putting the Ministry of Home Affairs in a proper position for dealing with their particular side of the question has delayed rather longer than we antici-

pated the clearing out of Wicklow Jail, but the conditions there are kept under close observation, and it is anticipated it will be cleared shortly. On the question of the general sanitary and other conditions in prisons, a very considerable amount of propaganda—and propaganda is described in Irregular documents as the art of spreading the truth, “truth” underlined—has been carried on as regards the present general conditions. I feel it necessary, therefore, to place before the Dáil, as this particular question has arisen here, the report by the International Committee of the Red Cross, who sent a mission here recently, and who were permitted any facilities that they required to visit any of the prisons. I propose to put the whole document on the Records of the Dáil, but there are certain extracts I would like to read here now. The Report states that:—

“As a result of numerous representations made to it on the subject of the treatment of prisoners in Ireland, the International Committee of the Red Cross, appointed MM. Schlemmer and Haccius to go to Dublin to obtain authority from the Irish Government to institute an inquiry of a purely non-political and technical nature into the position of the said prisoners.

“The delegates of the International Committee of the Red Cross were received by Mr. Desmond Fitzgerald, Minister of External Affairs, Mr. Walshe, Secretary, and General Morrin, Director of Army Medical Services. A mutual understanding was arrived at as to the nature of the facts to be investigated, and as to the character of the intervention of the International Committee of the Red Cross so as to determine the exact lines in which the activity of the Delegates should be directed.

“Considering that the character of the International Committee of the Red Cross confers on it the right and the duty to intervene when an appeal is made to it, and when the principles of humanity, which should be recognised by the belligerents as much during wars as following them, are publicly involved; considering also that the nature of the International Committee of the Red Cross, and the experience gained by it offer every guarantee of the impartiality of its inquiries, and of

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the manner in which all leanings towards any but purely humanitarian considerations should be avoided—the Irish Government decided to grant the authority requested by the International Committee of the Red Cross, and to accord to the Delegates every facility for visiting the prisons and internment camps of the country and of making a report on the treatment of those detained in them.

"M. Schlemmer then returned to Geneva in order to report on the result of the negotiations, and on the welcome accorded by the Irish Government to the application of the International Committee of the Red Cross.

"M. R. Haccius was delegated to visit the prison camps from the point of view of their organisation and accommodation, and of the sanitary conditions of the internees. We give the following extracts of information from the report submitted by our Delegate:—

"The total number of prisoners and internees is about 11,500 men and 250 women. Our Delegate visited the principal camps comprising a total of 7,369 prisoners. The treatment of these prisoners is devoid of all hostile spirit and the general principles adopted by the 10th International Conference of the Red Cross are observed. The Government refuses the status of "prisoners of war" to the prisoners, but in reality treats them as such."

"The Delegate particularly draws the attention of the Committee to the fact that nowhere did he find a wounded or sick prisoner left without medical treatment. On the contrary, he found everywhere a carefully organised medical service. The serious accusations made on this subject appear to him unfounded.

"The Delegate was not able to visit the prison at Kilmainham where 250 women are detained, but has no reason to believe that the treatment there is different to that adopted at Mountjoy. Thirteen of those prisoners had been on hunger-strike since the day of their arrest to obtain their release or immediate trial, and not as a protest against the prison regime. This fact is, moreover, verified by their written state-

ments. The Delegate did not consider it his duty to insist on getting into touch with these prisoners, fearing that his intervention, misinterpreted, would only encourage them to persist in their attitude, and give rise to a new case of strike. During his sojourn three of these prisoners were released.

"The buildings of the old 'North Dublin Union' are in the course of alteration for the reception of those detained in Kilmainham. These buildings, with the surrounding gardens, will fulfil all desirable hygienic conditions.

"The instructions given by the International Committee of the Red Cross to its Delegate exclude certain representations and sworn inquiries bearing on individual complaints. It is a fact that searches have taken place in various private hospitals, but the working of these hospitals has not been interfered with. There are grounds for the complaints of overcrowding in Mountjoy Prison.

"The complaints regarding the prohibition of correspondence with prisoners' families, sanitary conditions, and food in the camps are unfounded."

With regard to certain of the camps visited, in the case of Tintown, where the number of prisoners is 3,200, they reported that there are 72 men in the infirmary, and 25 men in the surgical hospital, that "there are no epidemics, but that a certain number of men who arrived lately are affected with scurvy, and have been isolated from the rest while being treated. Wash houses with water supply in the enclosure of the camp." The Mission reported on a visit to the internment camp at Gormans-town, that there are 1,500 prisoners there, and they found that there were 7 men in hospital, and that there were no epidemics. In Newbridge where there are 1,969 men they found there were 39 in the infirmary, and that each prisoner was provided with an iron bed, pillow, mattress, sheet and two blankets, such as in Tintown. They found that there was a great difference in the neatness of the rooms, and that this entirely depended on the prisoners themselves. In the same way in Mountjoy, "the interior service of the prison was kept clean by

the prisoners themselves. Soap and materials supplied. There is a vast difference in the cleanliness of the cells. Some internees scour the floor, and keep their blankets well beaten, while others take no care to keep their cells clean."

Generally, they found that the greatest possible attention was paid to the conditions under which the prisoners were housed. The food, and the manner in which the food was cooked and provided, was good, and the sanitary accommodation was so adequate as to overflow the use to which the majority of the prisoners actually put it. In respect of Kilmainham, the Red Cross Delegation did not visit it, but as late as June 15th we find ladies writing from Kilmainham, and saying: "I almost forgot to tell you I am enjoying this place fine, and don't care how long it will last." Another writes: "Don't take any notice of the Bantry people's talk—this is a great place."

Mr. JOHNSON: Were these sent to the Red Cross Delegation?

General MULCAHY: No.

Mr. JOHNSON: How did you get them?

General MULCAHY: From Tralee Jail we get a prisoner writing: "I am having a grand time here, I don't want any underclothing, we get fully rigged out here, last week got a new suit, new boots, shirts and socks. So we are well away now." From Tintown a prisoner writes on the 25th June: "This is a fine healthy place, I was never in so good a form before." From the same place another prisoner writes: "We had a great

day yesterday, we had all sorts of sports that you could mention, you could not have a better day outside, and we do have a dance now every evening—the best of gas."

Mr. EVERETT: He did not write from Wicklow.

General MULCAHY: From a Galway prisoner: "The Governor has told me just now that you heard I got beaten in Cleggan, but there wasn't a hand left on me." Another writes from Galway Jail also: "I am very well, T.G. I never felt better in my life. I could honestly declare that I am a stone heavier than the day I came to Galway. You know we have no work to do, and we are well treated in the line of everything to eat." I thought it necessary that that information should be put before the Dáil lest the making of conditions in Wicklow Jail—the matter of the general sanitary and other conditions in our prisons—would be misleading either to the Dáil or the public generally.

Mr. EVERETT: I ask the Minister to say would they be provided with beds while they remain there, and also would the patients be given milk, and a visit from a doctor daily. These are sick patients. We can prove they are sick, and it is no laughing matter. If any Deputy were in the same position he would not see it as a joke.

General MULCAHY: Any matter like that which is wrong in Wicklow Jail is fully under notice, and is getting attention.

The Dáil adjourned at 8.50.

DÁIL EIREANN.

DE CEADAIOIN, 4ADH IÚIL, 1923.

(Wednesday, 4th July, 1923.)

Cromadh ar obair an lae ar a 3.10 p.m. Bhí an Ceann Comhairle Micheál O hAodha 'sa Chathaoir.

CEISTEANNA—QUESTIONS.

STEAM-ROLLING IN KILKEE.

MICHEAL O DUBHGHAILL asked the Minister for Local Government if he has received a written complaint, dated the 6th June, 1923, from certain ratepayers in Co. Clare, stating that in the course of steam-rolling the main street of the tourist resort, Kilkee, grass sods, earth, and town refuse have been rolled into the surface along with ordinary road material; whether such practices are not calculated to create a prejudice against steam-rolling, and if the Minister is now prepared to grant the independent inquiry by one of his road experts asked for by these ratepayers.

MINISTER for LOCAL GOVERNMENT (Mr. E. Blythe): The complaint referred to was received, and inquiries were immediately made in the matter. The County Surveyor denied that the materials mentioned in the question had been used for binding, and stated that they were merely placed on the roadside for removal. His attention was drawn to the fact that dry rolling and use of earthy soil or clay were not conducive to good results. The County Surveyor admitted a shortage of water for use in road works, but promised to set that matter right and to obtain fine screenings or other suitable grit for binding and to cease using clay.

Complaints of the nature indicated should be made to the Co. Council in the first instance, as they are responsible for the proper execution of road works.

It is not considered that an inquiry as suggested is necessary.

GOREY DISTRICT HOSPITAL.

RISTEARD MAC FHEORAIS asked the Minister for Defence if he is aware that the Matron of the District Hospital at Gorey, Co. Wexford, has received written notice from local military officers, to the effect that the hospital must be vacated by 25th inst.; further, if this action has been authorised by Headquarters, and, if so, in view of the inconvenience that will be caused, will he take steps to have it countermanded.

General MULCAHY: The position at Gorey is that the Workhouse buildings are occupied by the military forces as a Battalion Headquarters, and have been so occupied since October last; that a small portion of the building is occupied by three or four Nuns in charge of the District Hospital, which contains four patients. At the original time of occupation the Nuns were given to understand that the whole premises would be required for military purposes, and they were allowed remain for some time on the understanding that they were securing suitable premises a short distance away.

It is necessary that Gorey be a military centre for an indefinite period, and in the concentration of troops which is going on at present it is found necessary to occupy the whole of the buildings, and it is found increasingly undesirable to have three or four Nuns occupying portion of a building which is a military establishment.

The Order at present issued is premature in that it has not been authorised from General Headquarters as required by regulation, but assurances cannot be given that the whole of the premises will not be required for occupation in the immediate future.

Mr. CORISH: Can the Minister say how long more the Sisters will be left in the hospital and also if it is proposed to provide alternative premises? I think a promise of that kind was given.

General MULCAHY: Actually the whole of the premises are required at once, but the matter should have come to General Headquarters for consideration as to the date up to which the Nuns could be allowed to remain there. That matter will have to be considered now. The buildings are actually required now, I understand from the responsible

officer, but due consideration will be given to the Nuns in asking them to remove themselves from the premises. It should be understood, however, that as long ago as October last the Nuns were advised it would be necessary to surrender portion of the premises occupied by them sooner or later.

Mr. CORISH: Would it be true to say that when orders were served in October last by the local Officer, representations were made by the Saint John of God Nuns to the Minister for Defence, and that he promised to provide other accommodation?

General MULCAHY: I do not think so.

Mr. CORISH: Still I would like to ask the Minister what it is proposed should be done with the patients there. Gorey is supposed to have 27 beds in the hospital, and certainly the Nuns should not be removed.

General MULCAHY: In the concentration of troops going on, it is found necessary to occupy the whole of the building. The actual position is that the matter has not been referred to General Headquarters and authorised by them. We now have that as being the opinion of the local Officer as to his local requirements, and the points raised by the Deputy now are matters that will be taken up by this Department with the Local Government Department, or whatever other Department is concerned with the finding of alternative accommodation.

Mr. CORISH: Would the Minister give an undertaking that the Nuns will not be removed until other accommodation is provided?

General MULCAHY: I cannot give an undertaking at the moment.

Mr. CORISH: Can the Minister say how long the hospital will be left in occupation of the Nuns?

AN CEANN COMHAIRLE: The Minister has already answered that question.

A GLENGARRIFF CLAIM AGAINST

TOMAS DE NOGLA asked the Minister for Defence whether he has received any accounts from Mrs. Hannah

O'Sullivan, Perrin (?) Hotel, Glengarriff, for rent for a house which has been occupied for some time by military, and for compensation for damage which has been done to the premises; and if so, whether the claim is being inquired into, and how soon may she expect payment.

General MULCAHY: No claim has been received at General Headquarters or at the Office of Public Works, which Department is responsible for the payment of rent of premises occupied by the Army, from Mrs. O'Sullivan in respect of rent for a house in Glengarriff occupied by troops or of compensation for damage caused during occupation. Local inquiries are being made in the matter, and when the claim is received its consideration will be expedited.

An amount of £34 11s. 10d. was paid on the 14th June, in full settlement of a claim for £53 10s. 8d., received from O'Sullivan, Glen Hotel, Glengarriff, in respect of meals, beds and provisions supplied during the period 11th to 23rd December, 1922

QUESTION ON ADJOURNMENT.

Mr. JOHNSON: I propose to raise a question on the adjournment as to the relative position of the Minister for Defence with other Ministers in respect to public buildings when Military emergencies do not require such action.

AN CEANN COMHAIRLE: The question concerns the relation of the Minister for Defence to the public generally in regard to the occupation of buildings. Perhaps Deputy Johnson would give the Minister some more information.

Mr. JOHNSON: The whole matter arises out of the question raised by Deputy Corish, and I think more information is requisite. It is impossible to get that information by supplementary question and answer, and I think the matter can be better discussed on a motion on the adjournment.

AN CEANN COMHAIRLE: That is to say the whole question of buildings at present in occupation by the military, or the right of the military further to occupy premises?

Mr. JOHNSON: It is the latter. I may say the point is, while one can appreciate the need of the Military Au-

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 thorities having over-riding power over any other authority in time of war, that is not the authority they should exercise when military necessities do not compel them to do so.

DEPUTY'S CORRECTION OF NEWS-PAPER REPORT.

Mr. GOREY: I desire to draw attention to this statement that appears in to-day's newspapers with regard to the debate of yesterday. The paper states that I agreed to the suggestion from the Minister for Agriculture that arrears and costs were to date from yesterday. What I did agree to was that the question of arrears was to date from the introduction of the Bill, and the question of costs from yesterday. I think the Dáil and the Minister will agree that that is so.

Mr. HOGAN: That in fact was the amendment I suggested and with which Deputy Gorey agreed.

COMMITTEE ON PROCEDURE. EARLIER FRIDAY MEETINGS.

The PRESIDENT: I understand that the Committee on Procedure has suggested that the Dáil should meet early on Fridays, and adjourn some hours earlier also. If that be the opinion of the Dáil I am prepared, with the leave of the Dáil, to move that the meeting of the Dáil should take place at 12 o'clock on Friday and adjourn at 5 o'clock. It means we will lose half an hour, but in order to enable members to get home there is no real objection in giving a half hour. I have not seen the report of the Committee on Procedure, but it has been put to me by more than one Deputy that a decision somewhat on those lines was come to. I do not know exactly what hour they decided to fix for the meeting of the Dáil, whether it would be 10, 11, or 12 o'clock. I think 12 o'clock will be a suitable hour, and if there be no objection I would move that the meeting should take place at 12 o'clock on Fridays in the future, and that we adjourn at 5 o'clock.

Mr. D. MCCARTHY: Five o'clock is too late for the country Deputies to catch their trains.

AN CEANN COMHAIRLE: This is perhaps the most convenient time to get

this matter settled, because if we do make a change in the hour of meeting on Fridays it would be well that the Deputies should have as much notice as possible of it. The Committee on Procedure discussed the question of an early meeting and early adjournment on Fridays. The Committee was unanimous, I think, in the idea that the meeting should take place earlier, and that the adjournment should be at 4 o'clock. I think that the view of the Committee was that an early adjournment is necessary, and that it cannot be later than 4.30, if members are to catch their trains. With regard to the time of the meeting in the morning they would leave that to the Ministers, as these would best know what the business would be.

Mr. MILROY: Friday is one of the evenings that is reserved for private business.

AN CEANN COMHAIRLE: The Committee were aware of that. Suggestions were made that the Standing Orders should be amended with regard to private business, and that the hours should be altered. Would Deputy McCarthy say whether 4 o'clock or 4.30 o'clock on Friday would be suitable?

Mr. MCCARTHY: Some of the trains go at 4.45 p.m.

Mr. F. McGUINNESS: The last train for Sligo leaves at 2.30. If we want to catch that train we cannot. We should approach the Directors to run a later train.

AN CEANN COMHAIRLE: The President thinks that 12 o'clock is the earliest time to begin the business. Would 12 o'clock to 4 o'clock suit?

The PRESIDENT: Yes, and we can adjourn at any time you suggest.

AN CEANN COMHAIRLE: If an earlier hour than 4 o'clock is required we would find it difficult to meet the Western Deputies.

Mr. MILROY: We could sit all night on Thursday.

AN CEANN COMHAIRLE: Notice can be given now or to-morrow evening of the hour of meeting on Friday. Can we take it now that it will be arranged

from 12 to 4 without an interval? Because if it is arranged I would like to circularise the Deputies who may not be here.

The PRESIDENT: I have no opinion upon that subject. It should be left to the Deputies. If the Deputies desire they could meet at 11 o'clock and adjourn at 2 o'clock for luncheon, but it would be scarcely worth it, to come back for one hour. I think everything considered, sitting continuously from 12 to 4 would be the best arrangement.

AN CEANN COMHAIRLE: Well, that is settled—12 to 4 without any interval. We will not amend the Standing Orders. We will arrange, for the time being, that the meeting on Friday will be at 12 noon, and will conclude at 4. In that event 4.30 would be the latest hour for a meeting of the Dáil and private members' business will come on at 2.

The PRESIDENT: Yes, so that if they are not particularly interested we would be able to adjourn at 2.

AN CEANN COMHAIRLE: At present private business comes on at 6, and that allows 2½ hours. Now, it will be reduced to 2 hours.

Order made:—That, until otherwise ordered, the Dáil assemble on Fridays at 12 noon, and adjourn at 4 p.m. Private business to be taken at 2 p.m.

DAIL IN COMMITTEE.

LAND BILL, 1923—THIRD STAGE RESUMED.

Mr. GOREY: I beg to move the following amendment to Section 16:—

In Sub-section (2), line 19, to substitute for the figures "1920," the figures "1921," and in the same line to substitute for figures and words "25 per cent." the figures and words "40 per cent.," and to make the consequential amendments throughout the Act.

This amendment to the section means to take two years' arrears into consideration instead of three years. It would also mean raising the 25 per cent. reduction to 40 per cent. This amendment is put up to meet the actual facts that obtain in the country. 25 per cent. on three years, if three years are to be considered at all,

is really of no good to the unpurchased tenants of the country. The last three years have been three lean years. They have been three years when agriculture did not pay, and when agriculture could not pay considering the prices that were got for agricultural produce, and everybody who knows anything about farming knows that. The result is that the people who owe three years' rent have no money. But the small tenants in the West and the small tenants in the South, it must be apparent to anybody, have for the last three years carried on their business without profits. There is no surplus there. It cannot be got. I do not believe that with the most powerful machinery of the law you can recover it, because it is not there to recover. We propose to take two years only into consideration, and that these two years be subject to a 40 per cent. reduction. We also suggest that one of these two years be paid in cash, and that the other be added to the purchase money. For the moment I will say no more. Let the case develop.

Mr. DINNEEN: I wish to support the arguments of Deputy Gorey. I know from experience that in the Co. Cork, owing to the disturbance of the last three years that it was impossible for the tenant farmers to make their rent, and not only the tenant farmers suffered from the condition of things that prevailed, but very many landlords themselves, because they had their places taken over. I know cases near the City of Cork where tenants owed last year three years' rent, and the landlords came forward willingly and offered to take a half-year's rent and give them 40 per cent. on that half-year's rent and to take on future gales a reduction of 40 per cent. until the Land Bill be passed. I know very well that there are landlords in the Co. Cork who try to get their full pound of flesh. I know of a landlord who processed a tenant for 1½ years' rent, and the tenant has to pay every penny up to the last half-year, including almost £60 in costs.

Mr. DOYLE: I quite agree with the two Deputies who have spoken as to the necessity for the amendment. I agree with Deputy Gorey in his remarks about how hard hit agriculture has been within the past three years. There has not been anything got out of it; it is a non-profitable business as far as the last two or

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three years are concerned. To anyone engaged in agriculture there is no need to press home this fact. People know it to their own cost. As regards former land Acts, I do not think that under them three years' arrears were ever asked for. At a time like the present, when depression is so pronounced in agriculture, why should the tenants be compelled to pay three years' arrears? I think it is really more than any of the tenants who owe three years' arrears can do. There is no use in suggesting impossibilities.

I believe the Minister would be well advised to accept this amendment in its entirety. We are told over and over again that the tenants who are purchasing under this present Bill are going to be better off than the tenants who purchased formerly. I cannot see how that can be, no matter how I look at the provisions of the Bill. The tenants who are purchasing now will be hit to the extent of £300 or £400 more in the entire cost of their purchase money than the tenants who purchased 15 years ago. By the time the two annuities terminate the man who is trying to pay on a £100 rental, even taking the largest reduction the Bill offers (35 per cent.), will be several hundred pounds worse off than the man who purchased 15 years ago.

MINISTER for AGRICULTURE

(Mr. Hogan): If we could approach this question on the lines of considering that a certain man owes a certain sum of money, and ask ourselves what is the most favourable arrangement we could make for that man, it would be easy. If we could approach the matter on those lines it would be much simpler. If it were open to us to say: "He shall pay nothing," that would suit and would save us a lot of trouble. If it were open to us to say: "He shall pay one quarter or one half, or whatever fraction you like to take," there would be no difficulty whatever. In short, if we could simply consider the man himself, and consider no other circumstance of any kind—if we had that wide range of choice—there would be no difficulty in making arrangements. But this is another question that you cannot legislate about without taking into account all other relevant considerations. There was reference made to previous arrears Acts. The last was in

1881. I pointed out on the Second Reading, and I do not think that anybody who knows the fact will deny it, that there is a radical difference between the arrears problem of to-day and the arrears problem of 1881. I am talking now in general terms.

In 1881, or, to be more accurate, before 1881, and before the Act was passed, the tenant paid whatever rent the landlord liked to charge him for his holding, and practically all the tenants were rack-rented. There was nothing to stop the landlord from increasing the rent as much as he liked, and in a great percentage of cases the landlord took advantage of that right. The tenants were rack-rented—there is no doubt of that. The rents were higher. On the average they were more than 50 per cent. higher than they are at the present moment; and remember that they were higher notwithstanding prices have doubled. I do not say the profits have doubled, but prices have doubled. The actual figure before 1881 was considerably more than 50 per cent. higher than at present, after more than forty years and after the European War. The fact is that in 1881 the real reason for the Arrears Act was that the tenants were utterly unable to pay their rents—very high rack-rents.

You could not get blood out of a turnip, and the tenants could not pay. They were being evicted on a very large scale and, as a result of legitimate agitation in Ireland, the Act of 1881 was passed and the Fair Rent Courts set up. Since then most of the tenants have got two decadal reductions—most of the tenants with whom we are dealing—and the rent has been kept strictly within bounds. The present strike against rents was only indirectly a strike in regard to amount. It was really a protest against the fact that the tenants had not purchased. I think that is a fair statement of the case. The present strike against rent is directly, anyway, a protest against the fact of the non-purchase by the tenants.

Mr. GOREY: Not the real reason.

Mr. HOGAN: Not the only reason, perhaps, but that was the direct reason for this strike. It began in 1920, at a time when we could not complain that conditions were as bad as they are now, and when it began the reason, as expressed by the tenants through all their organisations, was the fact of non-pur-

chase. That is the radical difference between this arrears problem and the arrears problem of 1881. Everyone in the country knows that, and everyone who has read the manifestoes and the utterances of the tenants' organisations will agree that that is the state of affairs. If the landlord is entitled to £67 14s. as the interest on the purchase money of this land, then he is entitled to something more in regard to arrears. If the figure of £67 14s. is right—

Mr. GOREY: It is not right.

Mr. HOGAN: We can argue that when the time comes, but if the figure is right then the landlord is undoubtedly entitled to something more on arrears. Whether you agree that it is right or not you must admit the principle that the landlord who has, until he gets this £67 14s., or whatever sum you like, to pay his own head rents and interests in full without any abatement, must get something more. You must admit that whatever annuity he gets as a result of the price he receives, he must get something more on arrears. During the last three years we had to face the facts that the particular landlords with whom we have been dealing had to pay their head rents. They had also to pay their mortgage charges. A man who owes interest to a mortgagee is in a totally different position from the man who owes rent to a landlord. Everyone knows enough about the country to understand that. The mortgagee has remedies easily enforceable, and there is no public opinion, and never has been any, against such enforcement. In fact they always have enforced, and they are ready to enforce, for the very good reason that nothing suits the mortgagee of an encumbered estate more than to foreclose. He will get the whole estate, and he stands a very good chance of getting more than his mortgage as the owner. He stands a chance of getting considerably more than his mortgage. The fact is landlords have had to pay their full rent and interest charges during the last three years and to do so without any abatement. They had to pay the usual rate during the war for a safe mortgage. That means 6 per cent., and it ran during the last three years. We are dealing with estates which are heavily encumbered;

at least a very great proportion of the particular estates are heavily encumbered. If the landlord gets his purchase money, or £5,000 of these encumbrances attached to the purchase money, and if you take £100 of that purchase money which represents £100 owed by the landlord on foot of a mortgage, the position will be like this: On that £100 he gets $4\frac{1}{2}$ per cent., whereas on that £100 he is liable for 6 or 7 per cent.

Mr. GOREY: It must be a Jew he is dealing with.

Mr. HOGAN: He is liable for 6, or perhaps 7, per cent. to the ordinary Banking House, the ordinary Insurance Company or to the Jews if you like. He is in a position to get over that difficulty the moment he gets his purchase money, because he can pay off the capital money in bonds. Until he gets his purchase money he must meet those interests in full and you cannot ask him to remain from this date until the appointed day in the position of getting only $4\frac{1}{2}$ per cent. out of the rent, which is the same thing as out of the purchase money, and paying 6 per cent. on it. That is the reason why you must give more to the landlord, and why you must give a greater income to him in respect of arrears and payment in lieu of rent until the appointed day then you need to ask the tenant to pay afterwards. It is clear that in equity if X is the annuity, or half X is the income which the landlord is entitled to receive after the appointed day, after receiving his bonds, he must receive something more than X up to that date if he is to meet his rent and charges. I am using the letter X so as not to complicate the question. Whatever the price or annuities may be, he must receive more. We fixed the landlord's income at £67.14, and I daresay we will have a very interesting debate on that when we come to the question of price.

I have already defended it on the First Reading, and on the Second Reading. We fixed his income in respect of arrears and in respect of payment in lieu of rent until the Appointed Day, at £75. He is not going to get that £75 in full. The cost of collection will be deducted. The amount he will get will probably be nearer £70. We are leaving an extremely small margin—the margin between something like £70 and £67.14—to meet this

[Minister for Agriculture.]

big difference in outlay which the landlord has up to the appointed day.

With regard to arrears, we have not been told why we should write off this extra year's arrears. It has not been suggested that during that year the vendor will be allowed by the owners of his head rents, and by his mortgagees to write off their interest. Everybody knows that they will do nothing of the kind. For that year he will have to pay his interest and his head rents just in the same way as he has to pay them for the two following years. In a great many cases he will probably have to borrow money for that purpose. As regards the tenant who has not paid any rent for the last three years, what has he done with the money?

Mr. GOREY: Squandered it on motor cars.

Mr. HOGAN: He should not have done that, but I do not think he did it.

Mr. GOREY: I do not think he did either.

Mr. HOGAN: He is not in the same position as if he had paid his rent every year. He has a certain amount of that money. He has paid nothing in respect of rent for three years—nothing whatever. The amount of money which he set aside for rent has not dissolved or evaporated. This is really a question of trying to do the fair thing. I know perfectly well that it is different to pay a lump sum down, and to pay the same sum by easy instalments over a period of three years. A tenant who has to pay £24 now can hardly pay it as rapidly as the tenant who had to pay £12 each year for the last two years. That is the reason we have given a reduction at all. We have given this 25 per cent. reduction, and in doing that remember we are putting these tenants who owed these arrears in exactly the same position as if they were paying annuity. Perhaps I am wrong in saying exactly the same position. They are really in a slightly better position than if they were paying annuity. The average reduction under the 1903 Act was less than 25 per cent.

Mr. GOREY: On Second Term rents.

Mr. HOGAN: On First and Second Term. We are dealing with First and Second Term now. We can get the returns any time.

Mr. GOREY: We are always asking for them.

Mr. HOGAN: They are on sale. The average reduction to First and Second Term tenants under the 1903 Act was something less than 25 per cent. We are giving this reduction now straight away in regard to arrears, so that the effect will be that from the year 1920 the tenants will be paying the same amount as if they had purchased. This is a question of a bargain. On the one side you have the fact that the landlord has to pay interest and has to pay his head rents, and on the other side we have to remember that the tenants who have to pay a lump sum down are in a different position from tenants who paid in instalments over a period of three years. We tried to strike a bargain. On the one side you have the very relevant consideration that you cannot afford to give the same reduction to the tenant as you could even in regard to annuity, because the interest the landlord must pay out of his rents is considerably more.

Take a tenant with two years' arrears. He gets 25 per cent. off each year. That is a half-year's rent written off, and remember that we have also written off any rent due before 1920. Now, that man has not paid anything for two years. It is not a great hardship on him to pay a year down. He got notice of that on the 1st May, when this Bill was introduced. And it is not a great hardship on him to pay a half-year between this day and the Appointed Day, as well as interest in lieu of rent, subject also to 25 per cent. reduction. The man who owes three years' arrears has saved more than that. He has saved an extra year. When we commenced collecting annuities there was no difficulty in collecting two years' annuities from tenants who had purchased. There was a certain amount of loud talk in the beginning, a certain amount of complaint about hardship, but they nevertheless paid up cheerfully. We are putting these men in exactly the same position as if they were purchasers. They will be paying the same amount as their neighbours who have purchased. The reduction we give in regard to arrears is exactly the reduction they would have got if they had purchased. I notice that the figure the Deputy has set down is 40 per cent. He has also made the same claim in regard

to price. Now, I put it to him that, even admitting his own figure—which I do not admit—of 40 per cent. reduction in regard to price, is it fair in the circumstances to ask the same reduction in regard to arrears? Let us get at it step by step. I want the Dáil to examine the question and to say whether they think we should give the same reduction in regard to arrears as in regard to price. I would like to hear the Farmers' Party on that point. If they say we should give the same reduction I would like to hear their reasons. We must treat this question as a business proposition, and we must have reasons for what we urge. I would like to hear also why this extra year's rent should be written off, having regard to the fact that all the charges which the landlord must pay were running in this year. And then, why should the figure be 40 per cent.? I have explained exactly why we have fixed 25 per cent. I have shown that a 25 per cent. reduction leaves an income of £75, less the cost of collection. That would bring it down to about £70, and we have only about 5 per cent. to cover the high rate of interest which the landlord must pay, and in regard to which he can get no abatements and has no remedy until he pays off the capital.

MR. GOREY: Let me first deal with the last point raised by the Minister. Everybody who had any connection with the Convention of 1918 knows, from the figures put before that Convention, that the landlord's income of 100 per cent. was only nominal. His real income was about 75 per cent. The cost of collection, estate charges and bad debts amounted to 25 per cent. Seventy-five per cent. and, in a few cases, 77½ per cent. fairly represented what the landlord actually received net. In making this 25 per cent. reduction and collecting arrears for the landlord, you are putting him in the same position as he was before; nothing worse.

The question has been asked, what the tenants have been doing with the money that accumulated for the last three years. We know that the average valuation of unpurchased tenants' holdings through the country is from £10 to £15. It does not require any great stretch of imagination to realise the small amount of money that must pass through the hands of occupiers of these holdings and the small amount of profit they could

have made in that period. In many cases there could have been nothing left. The tenant has to contend with the lean years, and we know the state of agriculture recently. I do hope the tenant has not gone down to Kilkee or Tramore for the week-ends, as some of us do. He has not, I think, squandered his money like that. The 1918 Convention and the 1920 Bill took two years arrears into consideration. That was by way of agreement between the two sides. In this Bill we are going outside of what the landlord agreed to in 1918 and again agreed to in 1920. There is a new line now being struck, and I do not know what is the reason. We have been also asked why we demand this reduction now. For the last two or three years we have not had normal times. We have not had facilities for marketing. We have not had a rail service. There is no use in shutting our eyes to these facts. The tenants could not get their produce to the markets, and some of it has been lying there for six or seven months. It is only during the past few months that it was got away in some districts. During all that time it was only a question of home consumption. The times were not normal. We are asked, why make a difference in respect of annuity and arrears? We have arrived at more or less normal times. Railway services are being carried on. We expect that in future years men will be able to do their business in a proper way. During the past three years they did not get a return for their work, owing to the conditions. We are dealing with certainties for the years to come. During the past few years there was no certainty in regard to a return for the work done.

We are not comparing the present position with the 1881 position. We are comparing it with the 1920 and the 1918 position, and when two years were agreed on in 1918 and 1920, certainly two years ought to be able to be agreed on in 1923. We cannot shut our eyes to these facts. We cannot get over them. The landlords' case has been put up very well. The condition they are in might be true; I am not in a position to dispute it. I know nothing about the landlords' end of the stick, but I do know a little about the tenants' end of it. I know that the average man in the country has very little return for his work. He had to live

[Mr. Gorey.]

up to some kind of standard; not alone that, but he had to support an irregular army who were quartered on him for months—almost for a year—and who robbed him, who took away his food and everything he had, and who broke down his roads and bridges. It is not a question that he will not, but he cannot afford to pay. There were a few counties, such as Dublin, with easy access to markets and with a fair rail service. These might be in a favoured position; but if you go to the West or to South Leinster, they were living in a condition of almost impossibility. I want you to realise the tenants' position, and not be giving too much attention to the position of the landlord. Try to realise the position of both, and try to do justice to both. There is no use doing justice to one and injustice to another. I am not speaking on my own behalf or on behalf of any party, or on behalf of a few people. I am speaking on behalf of the whole 70,000 unpurchased tenants. I am taking the average man, and I do say with all sincerity that the Government will not be able to recover these three years' arrears. Another thing that I think I mentioned on the Second Reading: If you add a year's purchase or a half-year's purchase to the purchase money, it will be very serious. A half-year at $4\frac{1}{2}$ per cent. will almost mean one or two years under the Wyndham Act, where the interest was, I think, $2\frac{1}{2}$ per cent., whereas it is now $4\frac{1}{2}$ per cent. You can very easily put a millstone around the tenants' necks in that way. Although the Minister has made a good case as regards the landlords' position, I do not think that he has made a case whereby he should make it impossible for the tenant in the future, or put him in an intolerable position, or put the country in the position that it will have to be security for his failure.

The PRESIDENT: Deputy Gorey puzzles me a little bit with some of the figures he has given. I take it, first of all, that the average rent that is paid by the tenant under this amounts to £10.

Mr. GOREY: Ten to fifteen pounds would be the average.

The PRESIDENT: The Deputy told us we were going to hamstring these

men and make it impossible for them to live in the future, and prejudice the physique of the race if a year's purchase at £10 at $4\frac{1}{2}$ per cent. be added to the rent. That sum of £10 at $4\frac{1}{2}$ per cent. will be 9s. per annum. I do not know if I understood the Deputy correctly. Did he infer that that 9s. is going to prejudice the future of this country?

Mr. GOREY: I think that argument would work at the landlords' end as well as at the other.

The PRESIDENT: The position with regard to the landlord is that he has not got the money.

Mr. GOREY: Begin at something else, Mr. President.

The PRESIDENT: I will take it another way. The Deputy states that there have been three lean years. I understand that 1920-21 was a lean year. I can give the Deputy painful evidence of the fact that it was a perfectly normal year. I do not know whether he questions the fact that it was a normal year.

Mr. GOREY: I question it.

The PRESIDENT: I know a particular case during the period where sixteen head of cattle were sold at 80s. per cwt. That is a fairly good price, and it is not evidence of the fact that there was a lean year there. The Deputy ought to be in a position to give us figures. If he makes the case, he is justified; if he does not make the case, he needs justification; and I am afraid in this case the Deputy will need more than justification.

Mr. GOREY: What time was it?

The PRESIDENT: The months of February and July. The sum in question was £420 for sixteen head of cattle; the price was 80s. per cwt. I say that was a perfectly normal year, and £100 rental in that year was made by the tenant. He profited by the fruits of his work in that particular period. In the normal course of events if it had not been for the interruption of the National movement he would have the money, and he would have paid it. If we then take the three years it is fairly obvious that there was that one year in which he was perfectly well able to pay that rent, and the sum according to this clause in the Bill for the three years is £225. Therefore,

what he is asked to pay, if we are to take the Deputy's information that there were two lean years, is an average of £62 10s.—in other words, there is a deduction of £37 10s. in two lean years. The Deputy knows, I suppose, as well as anybody the force of the point that has been made by the Minister for Agriculture that mortgages have had to be met, that the interest has had to be met, and these three lean years that the Deputy has spoken of must have been exceedingly lean years for the landlord, and that, whatever the tenants' position was, the landlords, who did not get any rent for three years, must have been in a very precarious position. Some of these have a life interest only, and they benefit only to the extent of whatever these arrears amount to. As regards the Deputy's suggestion of a 40 per cent. reduction for two years and the other year to go, the sum of £120 that the landlord is to be paid for three years would be an actual reduction of 60 per cent. in respect of the three years. I suggest to the Deputy that he ought not to insist upon this Bill at all, that it would be far better value if he could get over three years, and at the end of every three years, say, we will compound the arrears by paying 40 per cent. reduction in respect of two years, and that will settle the case. There will be no necessity for the Bill.

Mr. FITZGIBBON: I do not know anything much about the landlord's end of the stick, as Deputy Gorey calls it, but I have come across a little of the farmer's end of the stick in the ordinary course of my trade. I find myself occasionally called upon to advise some farmer who is purchasing a farm upon the title of the farm he is going to buy, and I have come across cases not before the war or in the early days of the war, but during the last twelve or eighteen months in which a farmer who owned one farm, so far from finding agriculture a losing business, was willing to purchase another farm on forty, fifty and sixty years' purchase of the annuity of the farm he was going to buy. Whatever the opinion one may form here of the farmers of Ireland, they are not such fools as to put enormous sums of money into the business that their own experience has proved to them to be a losing job. When you find any farm put up in this country for sale it is purchased at an enor-

mous price by people who are in the same business and who want to continue it in a new farm, I do not think that the business of agriculture is quite so hopeless as Deputy Gorey would lead us to believe.

Mr. GOREY: You are talking about the graziers.

Mr. FITZGIBBON: I am not talking about the graziers; I am speaking of the ordinary rich farms through the country. My business, so far as it goes, does not run in the grazing counties. I have very few clients, if any, in Meath or Kildare. So far as I get business from the country it mostly comes from the South and South-West. In the year 1920-21, this year that this amendment proposes to wipe out of consideration altogether, the deposits in the Joint Stock Banks in this country went up by twenty-three million pounds. There was one hundred and sixty-three millions deposit in the Joint Stock Banks at the end of 1920, and in 1921 it had gone up to one hundred and eighty-six and a half million pounds. The main increase in this case was in those banks which operate through the present Irish Free State, and that money was not the banking by landlords of exorbitant rents they had extracted from their tenants, because they were not getting anything. Therefore, that £23,000,000 came from somewhere. It did not come out of the landlords' pockets, and I do not think it came out of the profit of those industries that have not yet been started in the Saorstát, but that we hope now to see springing up. Looking to the sources from which that money came, the only place I can see it came from is this losing business of agriculture. Twenty-three millions, added to the one hundred and sixty millions that were already on deposit receipt in Joint Stock Banks, must have come from somewhere. Where could it have come from except from practically the only business that is carried on in the Saorstát, the business of agriculture? That is not a flea bite of twenty-three millions, because at the outbreak of the war there was only about sixty million pounds on deposit receipt, and the amount on deposit receipt since then has gone up from sixty millions to one hundred and eighty-six millions. Eighty-four millions of that has come in since

[Mr. Fitzgibbon.] the year 1918, and that in the Saorstát must have come from agriculture and nothing else. Therefore, it does not seem to me, from the return of the banks, that the trade is a very losing one. In the year Deputy Gorey seeks to strike out of consideration agriculture was not the least profitable, because the increase during that twelve months was the biggest increase since the return of the Joint Stock Banks was first issued.

Mr. DINNEEN: In the year 1920 the harvest was late, and oats were sold in October by those who were fortunate enough to have it thrashed. Towards the end of that year prices began to come down, and they were down by a big percentage in February of 1921. Before May fairs could not be held, and by May certain classes of stock had reduced in price by half what they were in 1919 and part 1920. The cattle bought in the middle of 1920 had to be sold for 40 per cent. less than what they were bought for. It was the greatest slump in one year that the agricultural industry ever experienced in Ireland, and many energetic, industrious and enterprising persons came to grief and were unable to pay their creditors.

Mr. GOREY: I was very much struck by the President's speech and by Deputy Fitzgibbon's. Now, the President told us a nice little tale about sixteen bullocks that cost £4 or £4 10s. per cwt. I am not quite sure which, but there is no dispute certainly about the sixteen bullocks. Probably there were sixteen or twenty more where these sixteen came from. Now, the man that has sixteen bullocks and is farming in the ordinary way must have a huge farm. Probably they were three-year olds. Now, I do not think, when the President was referring to these sixteen bullocks, that that would apply to ten out of the seventy thousand unpurchased tenants in Ireland. He had some friend who was a grazier in Meath, or Dublin, or somewhere, who had these sixteen bullocks, and when he instanced this case he did not explain at all that this tale of the sixteen bullocks would not apply to ten out of the seventy thousand men we are discussing in this Bill. That disposes of that argument. Deputy Fitzgibbon talks about the huge reserves that were

in the banks and that were accumulating in the banks, and no doubt he wants to infer that all these millions were put up by the seventy thousand unpurchased tenants with an average valuation of £15 a year. He wanted to infer that, and that the four hundred thousand purchased tenants in the country would have little to say to it. He wanted also to infer that the other interests, what is known as the "trade" in Ireland, and that all the other industries and professions had nothing at all to say to these millions. He wanted the Dáil to infer that all these millions were put up by these tenants, who were rolling in riches. Perhaps it would be nearer the mark to say that these millions were the portion that the purchased tenants made during the war, as compared with the unpurchased tenants, and that was made by the different businesses that were living out of Irish agriculture. There are a few trades living out of Irish agriculture

Mr. DAVIN: Guinness.

Mr. GOREY: Yes, there are a few trades: Guinness and other interests down from Guinness. Deputy Fitzgibbon made a very nice case for his friends, but I would be more impressed by his speech if he would put his hand upon half a million of all this money that was accumulated by these seventy thousand unpurchased tenants. If he could do any definite thing like that I would be inclined to listen to him with greater attention. Even if he showed me any figures I would listen to him. I really think the State will have to put up some millions to meet the losses that these people have suffered. He is talking about what 9s. in the year would mean to the average tenant. Now, the same argument applied to my friend the landlord. It will cut both ways.

The PRESIDENT: In the order I stated.

Mr. GOREY: When you come to talk about "bobs" like that you arrive at very little. The only point that is plain is that a few shillings mean a lot to poor men. It means the difference between existence and starvation. I will not say it means the difference between existence and comfort, for it never did. It is up to this Dáil and it is up to the Government on behalf of the nation to do what

is right. We consider that they have not done what is right. We consider that where other agreements have been come to in recent years between two parties concerned—where the landlords have agreed to take two years into consideration—that it is beyond the limits of justice and fair play to take three years into consideration. I made that clear in previous speeches, and the point has not been answered.

Mr. FITZGIBBON: If I might personally explain, I would say it is only fair to the unpurchased tenants to say that I did not charge, and I did not intend to be understood as charging, that all this money had come from them. My argument was that a great deal of it must have come from agriculture in which they were engaged.

The PRESIDENT: The Deputy has not dealt with the question whether or not the year 1920-21 was a lean year. That was my case, and the reason why I introduced the particular bullocks to which he takes exception. He states that it is on this matter of 9s. a year that the danger really lies. Nine shillings a year means 2d. a week. If the Deputy can explain to me that seventy thousand unpurchased tenants are necessarily going to be starved by having to bear this 2d. a week, I am prepared to reconsider my position.

Mr. DOYLE: The President is talking about 1921.

The PRESIDENT: No, 1920-21.

Mr. DOYLE: I think it was for 1921 you quoted us the story of the bullocks.

The PRESIDENT: 1920-21.

Mr. DOYLE: You spoke of selling in February and July.

The PRESIDENT: No, I spoke of a purchase.

Mr. DOYLE: When?

The PRESIDENT: February and July.

Mr. DOYLE: As far as the year 1921 is concerned, I say it is one of the leanest years that the farmer ever met in Ireland. I know that the few pounds he made in the war was all lost by him in

1921. He talks of cattle in July, 1921, being worth £4 a cwt. Why, there were not cattle in July, 1921, worth £4 a cwt. With all due respect to the President I say that, and I would like to see the quotations from the cattle market for July, 1921. It was a time when fat cattle could not be sold. I have reason to know well that in July, 1921, fat cattle could not be sold. Moreover, the Minister for Agriculture has told us that he is putting the unpurchased tenants for these three years on a par with the purchased tenants by giving them this reduction of 25 per cent. That is so for three years. What about the 15 years previous, when they were paying 25 per cent. more than the purchased tenants? Where a tenant's rental was £100 he paid in those fifteen or sixteen years £300 by reason of not being purchased. The reason why we are asking 40 per cent. on the purchase price is that these tenants may be put on something of a par with the tenants who purchased previously. Of course, the Minister made a statement all through that his prices were going to put the tenants in a better position than those who had purchased. I cannot find how they are going to be in a better position in any shape or form. He also dwelt on mortgages. I do not think that the tenants are responsible for that. I do not think that the tenants should be called on to pay exorbitant prices because the cost of living of the landlords has gone up.

Mr. HOGAN: I am sorry Deputy Gorey did not tell us where in the 1920 Bill his provision about the two years' arrears appears. I have the Bill here. There is no such provision in it about limiting the arrears to two years.

Mr. GOREY: I can show you the agreement between the two parties.

Mr. HOGAN: I have the Bill here, and I would be anxious to see it.

Mr. GOREY: I was one of the men who made the agreement.

Mr. HOGAN: The Deputy stated that the 1920 Bill allowed the landlords two years' arrears. I have the Bill here, and that is not in it.

Mr. GOREY: I made the agreement. Do you deny the agreement?

Mr. HOGAN: I know nothing about the agreement that the Deputy made with the landlords.

AN CEANN COMHAIRLE: Before we go any further with this I would point out that it is a question of the 1920 Bill, not any agreement made by Deputy Gorey.

Mr. HOGAN: The Deputy knows the agreement is not the point. There was no arrears problem in 1920. There were derelict holdings where rent was due, but there was not ten per cent. due all over the country. There was no arrears problem, comparatively. The problem we have now is not a problem in the same sense as that of 1881. If farmers were making £10,000 a year on a £20 holding some farmers would owe some landlords arrears. The tenants who owed rent for years and years came in and paid it during the war, in the good years. Deputy Doyle admitted that this twenty-five per cent. reduction brought present tenants purchasing under this Bill to the position of tenants who had purchased under the 1903 Act.

Mr. DOYLE: For three years.

Mr. HOGAN: For three years; that is exactly what I said. If you reduce tenants' rent by 25 per cent., you are putting them in the same position as if they were paying an annuity for three years. That is the fact. He explains that this 25 per cent. was made during the war. On a £20 holding, 2s. a week is £5 a year. That was during the war.

Mr. DOYLE: It was during twenty years. We had not the war for twenty years.

Mr. HOGAN: The war lasted from 1914 to 1918. I would like to ask how many hens would lay £5 worth of eggs per year. One good hen would do it.

Mr. GOREY: The Minister's hens. I want to put in a claim for a sitting of the Minister's eggs. I have the first claim.

Mr. HOGAN: One good hen, let us be strictly accurate, would lay the difference, £5 a year, and £15 a year on a £100 holding was simply the price of one very bad bullock during the war.

Mr. DOYLE: It was during fifteen years previously. I did not mention the war period alone.

Mr. HOGAN: Please allow me to approach the subject in my own way. I am talking of the year 1920-21. Deputy Gorey said we should keep away from shillings and pence. I can quite understand that, because he knows perfectly well that this rent and arrears question is an artificial one. Rents at present are the smallest part of a farmer's outgoings.

Mr. GOREY: Not the small man.

Mr. HOGAN: The small man especially. There are 70,000 holdings at £12 a year for the average holding. It is the smallest part of his outlay. We all know this rent question has attained an importance out of all relation to its economic importance, and I can quite see the reason why Deputies Gorey and Doyle would like to keep away from the figures. Take the £100 holding. The loss to the tenant who did not purchase during the war was £15 a year, the price of a very bad yearling during the war. Take the average holding, the £12 holding, the difference in the year between the annuity and the rent is £3. On the average £20 holding, a first-class economic holding, the difference is £5 a year. It is on those figures that all those diatribes are based. We ought to treat it as a business proposition. We ought to remember if we take over estates as they stand that it will affect the country's credit if we do not pay a price both for arrears and rent itself which will be at least the price which a banking institution would give for these. If we are prepared to sell the country's credit, and if now the time has come when we must sell and injure the country's credit, let us at least get value for our money. This advantage of £3 on the £12 holding, and the £5 on the £20 holding, and £15 on the £100 holding is hardly worth it. That is a serious aspect of the problem which the Dáil would do well to take into account. Is it worth while to injure the country's credit for such trivial advantages to one particular class?

Mr. McGOLDRICK: Níl puinn agam le rádh. I think that this amendment of Deputy Gorey's, which we are asked to accept here falls very short of the requirements of the nation. He states here that he represents the Unpurchased Tenants, and that it is in their interest the Bill is made. If that is so, he is equally bound to add to his amendment

that the rent paid during all those three years by those unpurchased tenants should be refunded. I think, in equity, he cannot dispute that contention, and that is the claim he puts before the Government. That is obviously the case he represents.

Mr. SEARS: There are two points I should like to put before the Minister with regard to the question of arrears. The first is that whatever those men had done with the land for the last three years, there was one thing I would ask them not to believe—that is, that those men had that amount of money in the bank or have it at their command. The people in their circumstances found the money slipping away from them, and it is not possible for them to hold it. Another point he should give more consideration to is made by Deputies here, and that is that fairs and markets were for a while held up, and they suffered considerably. Taking those two points into consideration, I think it would be very difficult for tenants who are three years in arrears to meet the case. If he could, I would like to make a greater demand upon him; but, in view of the case he has made, and of the fact that his whole aim in this Bill is to strike a fair bargain, I would suggest that in connection with those three years in arrears he would take off half a year of the purchase money. That would to some extent serve to meet their case.

Mr. HUGHES: I think the suggestion put forward by Deputy Sears is an admirable one, and perhaps one that would meet the case made by Deputy Gorey to some extent. If Deputy Gorey sees his way to accept that suggestion, I think pressure could be brought on the Minister to accept it. I am sure, if it is the unanimous opinion of the Dáil that that should be done, I would ask the members of the Party on my left seriously to consider that proposition, and perhaps it would end the controversy over the arrears.

Mr. O'DONNELL: I am an unpurchased tenant myself, and I speak for many other unpurchased tenants. I do not believe there is any problem with regard to arrears of rent during the period mentioned, because those were years when people had a flush of money, and they ought to pay up the arrears. If

we passed this amendment as it is, it might be brought to bear upon us later. We recollect the time when we were fighting the Local Government Board, and when a certain organisation sent round organisers to tell the people to pay no rates.

Mr. ROONEY: We will be at it again very soon.

Mr. GOREY rose——

AN CEANN COMHAIRLE: Deputy Gorey has already spoken three times. Perhaps he would not like to hear how often he has interrupted. However, I will allow him one more speech.

Mr. GOREY: I am impressed by the helpful suggestions of Deputy O'Donnell, and I have also listened to the helpful suggestions of Deputy McGoldrick. I know they were meant to help us in this amendment. Deputy Hughes and Deputy Sears have taken a very sane and helpful view. I am sorry, representing the people I do, that I cannot accept that view. The people I represent have adopted a certain attitude; I am only their instrument, and have to carry out their instructions. One thing that appears from this is that it affords a great ray of hope, especially to the West of Ireland, and I do think the West has a chance of getting on the right track and on the road to prosperity. I have heard it queried here: "What does ten shillings mean to the small man?" It means a lot. When you talk about ten shillings or a pound, it means a big lot to the small man. How much has the small man to give away? How much is he likely to make with his small valuation? You must try to look at the matter from the small man's point of view. Take into consideration his method of living and his home comforts, or his lack of them. Ten shillings mean a lot. We are told, too that it was only the price of a bullock, or a "screw," perhaps, in the years of the war that had made a difference to the man who did not purchase land and the man who did for the 14, 15, or 16 years between the operations of the last Act and the beginning of this Act. This is a bigger problem than many who are dealing with it lightly are inclined to think. If ten shillings are not taken into consideration in the life of a small man, then what are you going

[Mr. Gorey.]
to base your calculations on? You must begin to realise that he has very little income and very little to derive from the soil. Ten shillings may mean more to him than twenty pounds to a big man. I cannot withdraw this amendment, because it is the considered judgment of the people I represent. If this fails—I suppose it will, for I see no other signs—it will probably mean that there is nothing to prevent the suggestions made by our friends taking effect at a later stage. I must put this to a division.

Professor MAGENNIS: As an unpurchased tenant, I want to thank you, A Chinn Chomhairle, for permitting Deputy Gorey to make another speech, if for no other reason than that it has been exceedingly helpful. I thoroughly agree with what seems to underlie the arguments that he and his colleagues have put forward. Ten shillings seems a very small amount stated absolutely, but in conjunction with a variety of other things which go to make the conditions of life for the small holder it means an enormous amount. It means more than we, perhaps, can altogether realise. What I think is so particularly helpful is Deputy Gorey's declaration that he is speaking on this matter purely as a delegate. His position is one in which some of us occasionally find ourselves when we express on some particular matters not quite our own views or our own convictions, but rather those arrived at by the people whom we undertook to represent. It seems to me a compromise could be arrived at on this matter if an opportunity were given to Deputy Gorey to consult those who have instructed him to make this case. That 1921 was a bad year, for instance, is one of the alleged facts controverted. We all, surely, remember what the summer of 1921 was like—the hurtful effect of it upon 1922, the absolute absence of rain for months, the particularly torrid weather—weather almost semi-tropical—and we know it was most hurtful to the farming interests, and made the following year much more hurtful still.

Now, the want of markets, the general social upheaval, the insecurity, all combined, tended to make farming unprofitable in the years following. I think, as a matter of equity, we ought to take that into account. I do not think there is

provided a sufficient basis for the demand to have arrears reduced by 40 per cent. I must say candidly that while I am advocating in a way what Deputy Doyle and others of the Farmers' Party advocated, they have not made a case for a reduction of 40 per cent., but they have made a case for making it easy for those who have a burden of arrears to shoulder, and that ease might be supplied in the fashion indicated by Deputy Sears—instead of calling for the payment of a lump sum, to allow it to be distributed over a number of years. There was a fallacy underlying some of the arguments, at least it seems so to me, with regard to those arrears. The question was put, "What had the farmer done with the rent?" Why, that assumes he had it. Otherwise, it is pretty much like the question asked by Lord Dundreary of the lady for whom he was manufacturing small talk. He asked her: "Does your brother like tea?" "Do you know, Lord Dundreary," she replied, "that I have no brother?" He said, "Quite so, but do you think if you had a brother that he would like tea?" What did the tenant do with the rent that he is not able to pay? That is an unanswerable question. While I cannot, therefore, vote for Deputy Gorey's amendment as it stands, I yet feel that there is a great deal that ought to be met in the case put forward insufficiently in support of it. I would ask Deputy Gorey to withdraw the amendment, notwithstanding his instructions, and to allow this matter to be dealt with on the lines of distribution of certain arrears over the annuity payment.

Mr. HOGAN: In my view, in any case, the real reason for this strike or failure or inability to pay was the fact of non-purchase. That meets the point Deputy Magennis makes with regard to the question, "What has the farmer done with the rent?" It is not a case of the farmer in general not having the rent, but of a farmer withholding the rent as a protest against non-purchase. I tried to take into account the bad markets, the confusion, the hot summer of 1921, and all the other relevant circumstances when we fixed the 25 per cent. I tried to take into account the circumstances on the other side too, and we endeavoured to come to something which we considered would be reasonable, hav-

ing regard to the interests on both sides. I am ready to consider the suggestion of Deputy Sears, but unless Deputy Gorey withdraws his amendment and accepts this amendment, which could be prepared on the lines suggested by Deputy Sears, I can do nothing, and there is no alternative except to let the matter go to a division.

Mr. GOREY: I do not know what this suggestion means in actual figures.

Mr. HOGAN: I am prepared to consider Deputy Sears' suggestion, namely, in the case where a tenant owes three years' arrears that a half-year should be added to the purchase money.

Mr. GOREY: What about the tenant with 2½ or 2 years' arrears?

Mr. HOGAN: That would reduce the payment to 2½, and the half-year would be added to the purchase money. If Deputy Gorey is not prepared to accept that, then at present there is no alternative except to let Deputy Gorey's amendment go to a division.

Mr. GOREY: If the Minister can see

his way to add in every case a half-year to the purchase money—

Mr. HOGAN: I would not agree to that. Take the case of a man who owes two years' arrears. He gets 25 per cent. per annum off, and that is a half-year's rent on two years, and he only owes 1½ years' rent. It is not a hardship to ask him to pay in those circumstances. I do admit there is a slight difference in the case where a man owes three years' arrears. There may be a certain amount of hardship, and to meet that I am willing to accept Deputy Sears' suggestion that in the case of three years' arrears a half-year is to be added to the purchase money.

Mr. GOREY: A man with two years' arrears has already paid full rent for one year, and he is to get nothing but 25 per cent. off. Then the man who did not pay at all and who owed three years' rent will be treated as you suggest?

Mr. HOGAN: Exactly

Mr. GOREY: We could not accept the proposal; it is too ridiculous.

Amendment put.

The Dáil divided: Tá, 19; Níl, 39.

Tá.

Donchadh Ó Guaire.
Seán Ó Duinnín.
Domhnall Ó Mocháin.
Tomás de Nóglá.
Liam de Róiste.
Tomás Mac Eoin.
Seoirse Ghabháin Uí Dhubhthaigh.
Seán Ó Ruanaidh.
Liam Ó Briain.
Tomás Ó Conaill.

Aodh Ó Cúlaicháin.
Liam Ó Daimhín.
Seán Ó Laidhín.
Cathal Ó Seanáin.
Domhnall Ó Broin.
Domhnall Ó Muirghoasa.
Risteárd MacFheoráil.
Micheál Ó Dubhghaill.
Domhnall Ó Ceallaicháin.

Níl.

Liam T. Mac Cosgair.
Gearóid Ó Súilleabháin.
Seán Ó Maolruaidh.
Seamus Breathnach.
Pádraig Mac Ualghaigh.
Seosamh Mac Suibhne.
Peadar Mac a' Bháird.
Micheál de Duram.
Pilib Mac Cosgair.
Micheál de Stáineas.
Domhnall Mac Cáirteagh.
Maolmhuire Mac Eochadha.
Éarnán Altún.
Sir Séumas Craig.
Gearóid Mac Giobuín.
Liam Thrift.
Eoin Mac Néill.
Liam Mac Aonghusa.
Pádraig Ó hÓgáin.
Pádraic Ó Máille.

Seoirse Mac Niocaill.
Fionán Ó Loingsigh.
Seamus Ó Cruadhlaoidh.
Cristóir Ó Broin.
Caoimhghnín Ó hUigín.
Proinsias Bulfin.
Seamus Ó Dóláin.
Aindriú Ó Láimhín.
Liam Ó hAodha.
Proinsias Mac Aonghusa.
Eamon Ó Dúgáin.
Peadar Ó hAodha.
Seamus Ó Murchadha.
Seosamh Mac Giolla Bhrighde.
Liam Mac Sioghaird.
Tomás Ó Domhnaill.
Éarnán de Blaghd.
Uinseann de Facite.
Seamus de Burca.

Amendment declared lost.

Mr. MORRISSEY: I beg to move Amendment 21:—

In Sub-Section (2), line 19, to insert after the word "cent." the words:—
 "In the case of a tenant the total rateable value of whose holdings exceeds thirty pounds, and 50 per cent. in the case of a tenant the total rateable value of whose holdings does not exceed thirty pounds, or of a tenant of whose holdings not more than one-half is permanent pasture."

The object of this amendment is to secure that a large farmer or grazier who does not till half his land does not get the same benefit by the reduction as a small farmer or a large farmer who does till his land. The figure, £30 valuation, is selected as a reasonable dividing line.

Mr. DAVIN: I am neither an unpurchased tenant myself, nor do I claim, like Deputy Gorey, to represent 70,000 unpurchased tenants. I have been wondering whether Deputy Gorey, if there were 70,001 unpurchased tenants, would make the same claim. My support in this case is on behalf of the small tenant farmer who tills his land. He is the greatest asset to this nation, in so far as he is a member of a body that produces the food for the nation. The Minister for Agriculture wanted to know what these people did with their money, and Deputy Gorey said he hoped that they did not go to Kilkee or Tramore, or some other watering place. I am sure Deputy Gorey would not go so far as to say that the small tillage farmer who works hard for the benefit of the people is not entitled to a fortnight's holidays at Tramore.

Mr. GOREY: He is, if he could get them; but he never could.

Mr. DAVIN: He did not get them last year, but that was not due to the clerk of the weather, but to the high political atmosphere prevailing at the time. If the small tenant farmer cannot get his holiday at Tramore or Kilkee, there is one thing certain, that the landlord will get his holiday at Monte Carlo, or some other such place, at the expense of the man who pays the rent. I would ask the Minister to approach the consideration of this amendment by enquiring into the conditions in which barley and other crops were produced during the last three years. Up to the year 1920 there

was, generally speaking, no reason to complain with regard to the price for barley or other products. In 1920 the price ranged from 45s. to 52s. In 1921 it was from 18s. to 28s. 6d., and last year it was considered lucky to sell at from 11s. to 18s. We are told that the small farmer generally tills his land with the assistance of his own family. But are they not entitled to some return for their labour? In any event, in order to meet the cost of production, exclusive of any price for the use of his land, the price would require to be from 18s. to 28s. 6d. Therefore in selling barley, if he was lucky enough to sell it, he sold it at less than the cost of production, making no allowance or consideration for the use of the labour that was employed or the use of the land that produced this particular commodity. Against that you have the landlords' interests represented by Guinness's brewery, who sold the product of that particular commodity at the same price last year as it did three years ago, when the price of barley was 52s. a barrel. Perhaps the Minister would explain where the difference goes, or whether the two million five hundred thousand that Guinness handed out to their shareholders not very long ago, was at the expense of the tenant farmers of this country. As well as sowing barley, the tenant farmer usually produces whatever food is necessary to feed pigs, and I think that the price for the last couple of years is very low in regard to them, notwithstanding the fact that there is very little reduction for those who have to buy the finished article over the counter. The Minister said yesterday that the small landlord or the small estate was more likely to be encumbered than the large one. I suggest that the same argument applies in regard to the unpurchased tenant, and that he would be less able to bear the burden for reasons, some of which I have already given, and that the Minister himself has pleaded on behalf of the landlord.

AN LEAS-CHEANN COMHAIRLE
 at this stage took the Chair.

Mr. DAVIN: The President in dealing with the points put up by Deputy Gorey referred to the fact that sixteen head of cattle were sold at 80s. per cwt. at a certain time. I would like the Minister to make enquiries, and I would like to learn, as a result of the enquiries, the

number of unpurchased tenants of valuations of less than £30 who were able to put sixteen head of cattle on the market at 80s. per cwt.

Mr. GOREY: Not one.

Mr. DAVIN: Very few at any rate. The Minister also dealt very exhaustively with the position of the tenant—the position he will be in under this Bill as compared with the tenant who purchased under previous Acts. When the previous Land Bills, not compulsory, certainly, were passed, and when the tenant took advantage of them, money on the market was stationary at that particular time, prices were generally the same from one year to another; they were not affected in the way they have been affected in the last six years or since the outbreak of the European War. Money could also be borrowed at a very much lower rate than it is being borrowed at the present time. The position around the country at the moment, so far as I can gather, is that the small farmer owes money to the shopkeeper, the shopkeeper owes money to the wholesaler; very few of them owe money to Guinness, at any rate. The whole thing, as far as I can see it, is carried on on paper credit. There is one thing certain, and that is the two classes of people in the country who are suffering are the producer of the food and the consumer, who has nothing else to fall back upon except his weekly wage or salary. There is somebody in between these two who is getting a good whack out of it, at any rate. The Minister said you cannot take blood out of a turnip. If he could imagine that argument being applied as an excuse, it could by a stretch of the imagination be applied to the small farmer who owes two or three years' rent. I suggest it is an impossible proposition for him, even with the assistance of the Sheriff, to collect the arrears of rent, and he had better try to meet the situation by something in the nature of the amendment which I am supporting. I think it was Deputy Gorey referred to the cost of carriage. I have seen cases where a bag of potatoes or a bag of barley cost more in freight over eighty miles of Irish railway, than you would have actually to pay for them at the pit. I do not know exactly what he meant by bringing it into a question of this kind, but I suppose it was for the

purpose of showing that the man who produced the article is getting the least out of it. The Minister also seems to take the view that the non-payment of rent for the last couple of years is merely a protest on behalf of unpurchased tenants in so far as the landlords were not willing to sell.

Mr. HOGAN: The Deputy should try to quote me properly. I stated my view on that question at least three times. The Deputy knows it. I do not want to state it again.

Mr. DAVIN: I am sorry if I misinterpreted the Minister, but I did not take down what he said in shorthand. I took it that was the view he put up. If it is, I certainly do not agree with his statement.

Mr. HOGAN: If I did not say it, you do not agree with it?

Mr. DAVIN: There is nobody—at least I am not, at any rate—supporting an amendment of this kind in order to injure the country's credit. Landlords, generally speaking, will not depend on rents for a livelihood. You will find that anything worth anything in this country is owned by a very small number of people, and the landlord who lives in Monte Carlo out of the rents he gets from the tenant-farmers of this country generally gets something else out of big establishments such as Guinness's brewery. You can take it for granted that you are not actually going to send the landlords into bankruptcy or into any Home in this country, at any rate, as paupers if this amendment is carried. I think if the Government are not prepared to meet in some way the barley growers and other small farmers of the country, they will drive them out of existence. The amendment, if the Minister is prepared to accept it, I think will meet the present case of the very small farmer, who, generally speaking, is the food-producer, and is Ireland's greatest asset at the moment.

Mr. McGOLDRICK: I am wholly in sympathy with the principle that underlies the amendment, but I think that the line at which the barrier is drawn between the two classes is not a line that can be accepted. I represent a county in which the average valuation of holdings is £8.

Mr. GOREY: You represent!

Mr. McGOLDRICK: I represent a county in which the average valuation of the holdings is £8, and with the men on these holdings men like Deputy Gorey have very little sympathy or very little knowledge of what their economic requirements are, because he lives in a different atmosphere. He is accustomed to big farms and big grazing problems, but he does not know anything about the conditions that apply to holdings in a county such as I represent. With all due respect to the pretensions he makes here of representing the community generally, in this respect, I submit, he is not properly qualified to understand these things. I think if the partition between these two classes were regularised in some way, this amendment could be accepted. I could not possibly vote for it as it stands. There are forty thousand holdings in Tirconnail with a population of two hundred thousand. These people are labouring in the general interests of agriculture. They are not gambling on big prices or small prices; they are applying themselves to the best interests of agriculture, and they are a class that ought to be supported. They have something in common with the people of the West of Ireland, though in the West of Ireland tillage is not engaged in to the same extent as it is in Tirconnail. They represent, I suppose, 6,000 of the unpurchased tenants, and the money that would be involved in a remission with regard to these men would be very small, and to the landlord generally it would not amount to anything very much. In the case of big farms and big ranches it would amount to a good deal, but it does not amount to very much in the case of the small land-holder, who is working in the best spirit of agricultural development, and who only ekes out a bare living despite his arduous work. What would apply to him would not apply generally to the farming community more or less represented here by Deputy Gorey. I submit that it would be well if the Dáil would find some dividing line here. It is absolutely essential in the interests of those who are struggling. The man in the high-rated holding, generally speaking, is practically a landlord himself. I do not draw much distinction between the large tenant and the landlord. They

are both engaged in speculation—the landlord as to how much he can make out of his estate, and the tenant as to how much he can make for applying to his own specific purposes. I think that this amendment should be considered in a further stage of the Bill, and it is one, if properly drawn, that could be supported. Much money will not be involved; it will take very little from the landlord, while it will mean a great deal to these small land-holders. Generally speaking, these people have always met their obligations, and the amount of their arrears will bear no proportion to the arrears in the case of large holdings, where there has been a cessation of payments of rents for a considerable time back. Although these people have not been very well able to meet their engagements, they have at the same time made a struggle to meet them, and they should get encouragement. I have a recollection myself—and it extends further back than even Deputy Gorey's recollection—when, as a little boy, the landlord of one of the farms we held died, and for five years no person was in a position to collect rent. At the end of five years I was sent with five years' rent, whereas in the case of others who did not pay the arrears they were allowed off with a half-year's rent. The man who paid got no consideration, but the man who did not meet his obligations was the man, I think, that was looked after by the Act of Parliament. I think that was immoral, and if we are to do things as we ought to do, we should look at it in that way, and not as a matter of expediency. These things are matters of equity, and they may be dealt with under those principles. A margin should be drawn between the small tenant and the large one, and in this case it can be done, but the margin here is too wide. I cannot support the amendment unless the margin is drawn.

Mr. DAVIN: Would the Deputy suggest a reasonable figure?

Mr. GOREY: He does not want to be dishonest.

Mr. McGOLDRICK: £10 instead of £30.

CATHAL O'SHANNON: There would be an easy way for Deputy McGoldrick

to support that. If the Dáil accepts the amendment as it stands, it would be possible for Deputy Gorey to reduce the figure by a further amendment.

Mr. HOGAN: I am not accepting the amendment. Deputy Sears made a suggestion on the last amendment in regard to the question of arrears. I expressed my own view of it. That is as far as I am prepared to go. We are reminded that we must be equitable in those matters. We cannot have casual figures or haphazard ones. So far we have had no reasons given by the opposition. I want to know how this figure of 50 per cent. was arrived at. We have not got a single reason yet for any figure suggested by the opposition either from the Labour Party or the Farmers' Party. It seems to be simply a question of putting down whatever figure one happens on. I showed very clearly how we arrived at this figure. I showed its exact bearing on the price, but we have not got a single reason for a single figure put forward by the other party. I congratulate the Farmers' and the Labour Party on the happy position they are in. They are not in charge of the Bill, and are not responsible for it. The land question is a very old question, and everyone almost is interested in it. The opposition is in the happy position of being able to suggest any figure, either 50 per cent. or 60 per cent. If the Labour Party suggested 50 per cent., the Farmers would suggest 70 per cent.

Mr. DAVIN: On a point of explanation, may I say that we had no knowledge of the Farmers' amendment at all when we put forward ours.

Mr. HOGAN: No one suggested you had. If the Farmers say 40, they say 50. The two parties are having a picnic. I do not envy them their position. Some day I may be put in that position myself. This debate is appearing daily in the Press. There is an election coming on in a short time, and without very much cost, without making themselves responsible for any of the consequences of those amendments, they can go down to the country and talk about 50 or 60 per cent. Deputy Davin can tell his constituency about the small farmers in whom he is so very much interested.

CATHAL O'SHANNON: Why did you

not keep the Bill until after the elections?

Mr. HOGAN: I do not begrudge either the Farmers' Party or the Labour Party their present position. I wish I was in it myself. We can all make allowances for a thing of that kind. I do not think anyone is going to be deceived by this tremendous interest in agriculture in general. We, however, who are responsible must give reasons for our figures. We must consider what reactions they will have on the credit of the country. We must see that the figures square with justice, because I hope this Bill will pass and be put into operation, and that in two, three, four or five years time we will not have any reason to be ashamed of it. We have to put in figures accurately, realising that we are responsible for the Bill. I would like to hear this 50 per cent. defended. I am not good at mathematics, but I think I could prophesy that I could defend 60 per cent. by exactly the same reasons as I could 70 per cent. I do not know why Deputy Davin, having regard to the price of barley, did not put in an amendment that no arrears be paid.

Mr. LYONS: That is justice.

Mr. HOGAN: Why was it not put in?

Mr. DAVIN: I spoke in support of my own amendment, and the Minister should answer the arguments that I put up then.

Mr. HOGAN: I hope Deputy Gorey will take notice that there is a division also in the Labour Party.

Mr. GOREY: Those benches should take notice too.

Mr. HOGAN: We do not blame any one for not wasting time listening to the arguments that have just been heard, because no one takes them seriously. Deputy Lyons suggested 100 per cent. Does Deputy Davin agree with that? If he does, why does he not stand up for it?

Mr. O'CALLAGHAN: We did not like to embarrass you.

Mr. HOGAN: Thanks very much, I will accept that reason, as it is the only one available in those circumstances. Barley is practically down to pre-war figures. We are bringing rents down to pre-war figures. We are dealing with

[Mr. Hogan.] pre-war figures. Remember that. Wherever there was inflation as a result of the War, and wherever the tenant got a benefit as a result of that inflation, we are not taking it into account. We set out expressly to deal with the tenant's position as if prices were exactly pre-war, and that is the reason we gave this 10 per cent. contribution in order to lend the money at the price at which we could borrow and lend money before the War. You are to deal with the tenant in pre-war prices as if the European War had never occurred, and as if those conditions were exactly the same as pre-war. When people talk about the price of barley, barley is down to pre-war price, and in some cases below it, but we are dealing with the tenant as we would pre-war, and we are giving the tenant between 10 and 15 per cent. better terms than pre-war. Deputy Doyle admitted that 25 per cent. deduction would bring it down to the 1903 Act. Now we are giving 35 per cent.

MR. DOYLE: I want to say that I admitted no such thing that you were putting them on a better basis than the former tenants. You are putting them on a worse basis. Take the rental of £100—

AN LEAS-CHEANN COMHAIRLE: You are not allowed to make a speech.

MR. DOYLE: He made a statement and attributed it to me. I say there is no such thing as better terms, and that the price the Minister is offering in this Bill is worse.

AN LEAS-CHEANN COMHAIRLE: Deputy Doyle will have an opportunity of speaking after the Minister.

MR. HOGAN: I think the Dáil heard the Deputy admit that if we reduced the rent by 25 per cent. the reduced rent would be equal to the average annuity that would be paid by the tenant who had purchased. Is that correct?

MR. DOYLE: No; I qualified that statement considerably.

MR. HOGAN: He admits having made it, but he qualified it. Statements can be made, but when you see to what they lead you can qualify them. I do not think Deputy Doyle is the sort of man who would run away from statements

which he makes. The reduction of 25 per cent. would bring the tenant's annuity down to exactly what was paid before the war under the 1903 Act. He admitted that. We give the tenant in this Bill 35 per cent. reduction, so that not only are we saving him from the inflation in prices as a result of the war and from the dearth of money, but we are giving him better terms as far as his annuity is concerned than if he had purchased pre-war. We are giving him 10 to 15 per cent. better terms. When Deputies talk of barley being back to pre-war price they must remember that. They must remember that we took that into account, that that was the reason why we fixed this reduction, or at least one of the reasons. We are not saying anything about the things that are not down to pre-war prices, but which are much above pre-war prices. We are not making any allowance for that, but we are certainly allowing the tenant for everything that is back to pre-war by this 35 per cent., and we are giving him 10 to 15 per cent. better terms with regard to prices. Deputies should remember that when they are talking of the price of barley. We took all these considerations which I have heard now into account. We worked out our figures with very considerable thought, and after, I hope, giving the question the time and attention that such serious questions are entitled to get. Having done that, we are entitled to get from a responsible opposition how they defend this figure of 50 per cent. Apart from the reasons that I referred to at the beginning, I think they ought at least to make a show of defending these figures. I heard Deputy Davin talk on the cost of production, basing a number of interesting arguments on it. I had a look at the farmers' benches and I was hoping that Deputy Gorey would rise to the occasion and point out that this cost of production argument cuts both ways. There is an item called labour—surely labour has something to do with it.

MR. O'CONNELL: These people do not employ labour.

MR. HOGAN: That is the reason that the cost of production is used here. The cost of production argument is one that I am glad the Labour Party have definitely given their allegiance to. I certainly will not advise the Dáil to accept

this amendment and to accept any amendment on these lines. I have stated what I had to say to Deputy Sears' suggestion, and I would not go any further.

Mr. DOYLE: The Minister for Agriculture stated that I agreed that he gave the same reduction in the Bill to the unpurchased tenants. He gave the same reduction for three years. In stating that, I asked the Minister what amount did tenants pay in excess for fifteen years previously. Would the Minister answer that? He began then telling us about a bullock paying the difference. But that meant fifteen bullocks. Five pounds meant five times fifteen pounds. I admit that you gave it to the unpurchased tenants for three years, but what about the fifteen years previous when they got nothing? What about the case where the £100 tenant was compelled to pay £300 more than the unpurchased tenant beside him? It is all very well for the Minister to say that we are using this for propaganda. Possibly the Government will go down and use something else for propaganda, about the sectional attitude we are taking up here.

Mr. JOHNSON: This point that Deputy Doyle refers to is most amusing when one bears in mind what the Minister said a while ago, when he said that this question of rent is a comparatively small matter to the tenant farmer today.

Mr. HOGAN: Does the Deputy agree?

Mr. JOHNSON: That is the Minister's statement. The Minister has brought in a Land Purchase Bill in the Dáil, where 50 or 60 Deputies attend out of 128. He wants to get this passed before the election. We are charged with introducing amendments with a view to the public. I think the charge can be quite fairly thrown at the Minister in view of his own statement that the question of rentals is comparatively small. This matter of land purchase, as the Minister himself said, should be dealt with by a Parliament representative of you all. This was placarded all over the country: "The country should be fully represented in the Parliament of the nation," and that Parliament should deal with this land question. Well, in view of that, I think it does not lie in the Minister's mouth at any rate to make these refer-

ences to amendments put down with an eye to the public. He has asked why 50 per cent. was put down, why is 25 per cent. put down? I will tell him. Twenty-five per cent. is his figure. It is intended to apply to all those who owe rentals, whether they were men living by their work on the land or whether they were men living by the sale of cattle which were grazed on the land. If it is a fair reduction for a cattle grazier, then at least the tiller of the soil is entitled to double that reduction. Now, the Minister may say that on that argument he is entitled to 60 per cent., 70 per cent., or 80 per cent. I would agree. He is certainly entitled to a greater reduction than the man who simply grazes cattle on the land, and whom he says is entitled to a 25 per cent. reduction. We have been very much familiarised with the contention from those who, if they were present, would be sitting on the Ministerial Benches, that the grazier, the large farmer who grazes his cattle, and the small farmer who works the land should be treated on a different basis. That is true, or it is not true. The echoes come from the Ministerial Benches that it is true. We want to test it. Are they prepared to treat the tiller of the soil on better lines than they would treat the grazier?

Mr. HOGAN: The Bill answers that question.

Mr. JOHNSON: The amendment is put down with a view to eliciting the views of the Ministry on that proposition.

Mr. HOGAN: The Bill itself gives them.

Mr. JOHNSON: The Bill does not on the question of arrears, at any rate. Deputy McGoldrick told us that. I do not suppose there are many Deputies here who have a better knowledge of the position and the condition of the small tenant farmers than Deputy McGoldrick has, and he agrees that there should be a line drawn between the two classes of tenants. He thinks that the £30 mentioned in the amendment is too high, but at any rate it will include all those whose interest he has at heart, so he need not object to the amendment on that account. If he agrees that there is a large number, or any number, who are over £20 valuation or a £10 valuation, that should be included in the 25 per cent.

[Mr. Johnson.]

category, well, that is a matter that we can perhaps accommodate him with. At any rate, he agrees with the principle that there should be a distinction drawn between the tenant who is tilling his holding, the small holder who must perforce, if he tills his holding, live out of the proceeds of that holding, and the extensive holder who has not tilled his holding. He got into arrears because of his failure to back the winner in the cattle gamble of 1921-22.

We are prepared to agree with the Minister that a 25 per cent. reduction is sufficient for him. The Minister contends it is a fair proposition that such a holder is entitled to a 25 per cent. reduction of any arrears, and we retort that if he is entitled to such a reduction, then the man who did his duty by the State, the man who fulfilled his trust in his holding, is entitled to a greater reduction than the man who simply used the land for the purpose of a cattle ranch. That is the case for the amendment. The Minister accepts the principle; then the figures may be arranged, and I am sure we will be able to accommodate him either to follow Deputy Lyons's suggestion and wipe out all arrears, or to modify the figures, and, as a matter of fact, to collaborate with the Minister in making this distinction as effective as possible, to give a preference to the land-holder who tills his land as against the land-holder who refuses to till his land. I have a table here in connection with one county. It is not, perhaps, the best illustration, and it was got out for an entirely different purpose. In the county there are 162 holdings, ranches averaging 340 acres and with a total acreage of 55,059. The total number of men employed on all that property was 432, or one man per 128 acres. What proportion of those holdings would come under this Bill I have not the slightest conception of. I do say that kind of land-holding in other counties, and to some extent in this county, ought to be penalised as compared with the tenant tiller of the soil. This amendment will at least test the principle whether it is intended to place the grazier on the same plane in regard to arrears as we are proposing to place the tenant-holder who is a tiller of the soil.

Professor MAGENNIS: Deputy John-

son does not apparently realise that the answer to his important question is the Bill. If he will look at Section 21, Subsection (3), and at Section 28—sections upon which I dwelt in the Second Reading—he will find the whole spirit of this is to relieve the tenant with whose interests he is so much concerned.

Mr. JOHNSON: Touching arrears.

Professor MAGENNIS: Touching the placing of him in a proper economic position.

Mr. JOHNSON: We are dealing now with the question of arrears.

Professor MAGENNIS: I know; but Deputy Johnson proclaimed with great rhetorical effect, and with the air of an expectant victor entering into the captured citadel, that this was going to test the whole character of the Bill—

Mr. JOHNSON: No.

Professor MAGENNIS: Whether or not those who propose it meant it for the advantage of the right sort of land occupant or the wrong sort of land occupant, and it is merely with that particular aspect of his argument that I am now standing up to deal. It is quite obvious to anyone who studies the Bill that it was conceived and framed in the spirit of rectifying all the wrongs that are outstanding in regard to the landless men, the agricultural labourer, who is deprived of land because of the operation of previous Purchase Acts, people who have uneconomic holdings, others who were debarred from turbary rights. And then there is a provision dealing with the farmer who has a large holding of untenanted land and who is going to work it. Again, Deputy Johnson ought to note that one of the requirements which the Land Commission is to insist upon in regard to all applicants under Section 28 for advances is the capacity of working the soil.

Mr. JOHNSON: We are not dealing with that particular character of the Bill. We are dealing with arrears, and only arrears—things that have passed, not things that are to come.

Professor MAGENNIS: This is logic running mad, because if a Deputy advances a certain doctrine or view in order to support his criticism either of a Sec-

tion or an amendment to a section, anyone is entitled in any sane assembly to stand up to rebut the argument, whether or not he takes or does not take the view with regard to the other matter out of which this doctrinal disquisition arises. I submit that I am quite in order in attempting to show that this declaration that the amendment has the incalculable value of testing the whole Bill is put forward here, with the recommendation that it is the touchstone, and I suggest to anyone who reads the Bill fairly that the touchstone has already been applied satisfactorily.

Mr. HOGAN: I find myself being forced into the position of being the only one to stand up for the unfortunate farmer. Deputy Johnson says he would like to give advantage to the man who performed his trust. It is when you get down to the question of what he means by performing his trust—the trust that the State put in him by giving him this holding—that we begin to differ. Tillage did not pay for the past year. Potatoes are £1 a ton, and a man could not afford to till to the same extent as heretofore for a number of reasons. Are we to penalise a man because he did not till to such an extent as in previous years, because he did not till to a large extent, even though, if he did till to a large extent, the tillage might not pay? That is the doctrine. I am not saying now that a large farmer should not till considerably. The large farmers can and do, but you are not making the measure the amount of tillage. Is that fair, considering that when you go for a certain area of tillage, for reasons which I will not go into now—

Mr. JOHNSON: May I remind the Minister that there are alternatives—the valuation of the holding or the amount of tillage?

Mr. HOGAN: The Deputy did not really defend the amendment so much as the general principle. I am on the same point as Deputy Magennis. This was the touchstone, and the Deputy's test was the amount of tillage that was done. Are you to penalise a man because he did not till to such a very large extent that it would not pay him? I agree that the State is entitled to expect that a man should use his land properly. But, on the other hand, the owner of the land is

entitled to take into consideration whether he can make a profit or not.

Professor MAGENNIS: He is not in it for his health.

Mr. HOGAN: He is entitled to take into consideration how much he can till and make a profit. If you make the measure purely and simply the amount of tillage, then you are doing an injustice. I think the Farmers' Party will, at least, bear me out in that. I do say that if you want to draw a line that you cannot do it at a valuation of £30 or £10 or £5. You will get men whose valuations are under £10 not giving value to the State for the land they have got. You will get men whose valuations are over £10 not giving value to the State. You will get men— and plenty of men—whose holdings are under £5 valuation, who are giving full value to the State, and you will, likewise, get men with over £100 valuation giving full value. But what the Deputy suggests is that the Land Commission, immediately this Bill is passed, should set out and examine every holding in Ireland. That is what would have to be done if the Deputy's idea were carried out.

I was twitted with introducing this Bill before the Election. Every Party in the Dáil asked me at least five times across the floor of the Chamber when this Bill was coming. I was pressed by all parties to produce it. If I have one file in my office I have a thousand, from all sorts and conditions of organisations—Back to the Land, Labour, and Unpurchased Tenants—asking when I would bring in this Bill and telling me to bring it in immediately. Now I am told it is introduced for election purposes, and again we are twitted with supporting the landlords.

Mr. JOHNSON: Do you remember the Governor-General's speech?

Mr. HOGAN: I remember it quite well. All the demands made were that we should deal in this Bill with averages. The tenants pointed out—and rightly pointed out—that the old system was slow, and that it was not, for the difference, worth while to have the Land Commission going over all the holdings, examining them and pricing them. Having regard to the fact that we were dealing, to a great extent, with judicial

[Mr. Hogan.] rents, it was urged that we should adopt the system of averages—that we should strike averages and have the operations of the Bill as far as possible automatic. Nobody ever suggested that there should be a line drawn. All these organisations looked for averages. A rough and ready method was what they wanted. The Deputy can make what capital he likes out of that. Rough and ready methods are what they asked for. I have given them the ready methods, and I have given them fine methods as well. Not a single organisation through the country ever asked for anything except an average figure.

CATHAL O'SHANNON: Did they ever ask for tillage?

Mr. HOGAN: I am not on that at the moment. I cannot deal with two points at the same time. I was blamed by every party for not making one figure apply to First, Second and Third Term rents. I could not see my way to simplify it down to one figure, but I brought it down to two figures, and I think that was rather good. I was rather criticised for that, and we seem to be back at this position now: wherever any average is likely to prejudice the position of the particular people whom a Deputy is interested in at the moment then the Land Commission is to value the holding. Each Deputy is interested in a different class or a different section or a different part of the country, where there are special conditions, and we are gradually getting back to the position under the 1903 Act of handing over the work to the Land Commission and getting them to examine all the estates and go into the circumstances of each holding—getting them to take the special circumstances of each case into consideration and do justice to each case. It would be very nice if we could do that, but it would take at least twenty years, and we would be back to the good old time under the 1903 and 1909 Acts.

I claim that I produce figures which do justice. I claim that it is not as hard a task to do justice by averages in this particular Bill as it would have been before, because we are dealing with figures that have not been inflated, and that are really rock-bottom figures. Most of the tenants went into the Land Courts when they were set up, and a certain standard figure

was put on each holding. We can take a line from that figure. Where tenancies are non-judicial we are allowing the Land Commission to value them. As regards the judicial tenants, we can take a line from the standard figure and we can be very accurate. Every farmer knows that it would not be worth while, for the purpose of righting the little injustices that might be done in particular cases, to go back to the old system and to have the Land Commission do everything. We have tried in this Bill to meet the requests and desires of the tenants' organisations and the labour organisations who wrote to me urging me to deal in averages; there is no use at this hour of the day quoting a particular case and suggesting that the Land Commission should be set going again, inspecting holdings and generally inquiring into how the people use their farms. That is the way to hold land purchase up. It would do more harm than good. What the tenants want is expedition. What we want is expedition. We want to get the Bill passed and to see it operating at the earliest possible moment and in the most expeditious way, and we want to make the tenants the owners of their own holdings.

Mr. LYONS: I am of opinion that the Minister for Agriculture did not regard this amendment in a proper light. I think it is an amendment that should meet with the approval of even the Minister for Agriculture. Considering that the amendment is designed to benefit the really poor man, it would be surprising to find that the Minister for Agriculture or any member of the Government would urge its rejection. The amendment says that in a case where the tenant's total rateable value exceeds £30—

Professor MAGENNIS: Is he a poor man?

Mr. LYONS: He is to get 25 per cent. and in the case of a tenant whose valuation does not exceed £30, or of a tenant of whose holdings not more than one-half is permanent pasture, he is to get 50 per cent. That is one of the most necessary amendments that have been introduced in connection with this Bill. It is not put forward for electioneering purposes. We know that these Benches would be packed after the election, whether or not this amendment was put forward. If the

Minister or the Government reject this amendment it will show that it is really a capitalist Government, and out for the big grazier and not for the poor man. The men who can turn out 16 fat bullocks to the market, I can assure the Dáil, are not the men we are seeking to get this 50 per cent. for. I have the honour to represent a county with the best land in Ireland next to that of Meath, and there is no man in my constituency who can fatten and turn out 16 bullocks on a holding under £30 valuation. Take the argument put forward by Deputy Gorey, which I consider was honest. I am sorry to say that Deputy Gorey was misled—

Professor MAGENNIS: Misled into honesty!

Mr. LYONS: Misled by the Minister for Agriculture when he introduced the Bill. Mr. Gorey, on the second reading of the Bill, said:

Now, with regard to the question of price, the price set out in this Bill falls very far short of the demand we put forward, and that applies to both price and arrears. I will deal with the question of prices first. They are not even as high as the prices demanded by Fr. Maguire on behalf of the unpurchased tenants of Co. Monaghan. These were 45 per cent. on first term rents, 40 per cent. on second term, and 35 per cent. on third term.

I read that out for the purpose of showing to the Dáil the necessity for accepting this amendment. The Farmers' Party at the time accepted those terms, which were the smallest put forward by that particular unpurchased tenants' organisation. It is only right that the Dáil should now accept this amendment for the purpose of benefiting the poor man. I fully realise that in some counties a holding of £30 valuation is a good holding, and one a man can live on. It would be an injustice if we did not do something for the man who tills a good portion of a small holding. We are not penalising by this amendment anybody who really does justice and contributes to the prosperity of the State. I am of opinion that the Farmers' Party, so far as they have gone, have tried to do justice to the people they represent. But we must take into account that, as Deputy McGoldrick said a few moments ago, and as I was sorry to hear men-

tioned, Deputy Gorey, the leader on the Farmers' benches, was not out for the uneconomic holder or the unpurchased tenant, but was out for the grazier when he wanted to deal with the sporting rights so that everybody could rear greyhounds. Amendment 20 was out for the interests of the small men, and if that amendment was out for the interests of the small man, so is Amendment 21. The Minister for Agriculture said that if a man owed rent amounting to £24, it would be spread over a term of three years. That would be £8 per annum. How could a man with six or seven acres of land, some of which, to my own knowledge, is not worth 2s. 6d. per acre, pay back arrears to the extent of £8 a year? I am surprised at the Minister for Agriculture, at the Dáil, and at the Government, and I would be twice as much surprised if any Teachtaí would vote against this amendment, because I hold that this amendment does justice to all classes. You may compromise in the amendment. If it is a decent compromise I am sure the members at this side of the Dáil will not force it to a division. We do not want to show the hands of any Deputy here; we simply want to see that justice is done. When I used the phrase "Showing the hands," I meant we do not want to do them out of votes at the next election. If a tenant at the present time owes £24, I wonder how much profit the landlords have made in the last twenty or thirty years. I can assure this Dáil that in the last twenty or thirty years a lot of the landlords still in Ireland came into the possession of the land not morally or legally, but through grabbing. I do not see why these people should be entitled to get an excessive rent from the original owners of the land.

I said on the occasion of the Second Reading of the Bill that the landlords were worthy of all the names that Deputy Professor Magennis called them. Of course, Deputy Professor Magennis did not mean to call the landlords names, but he tried to interpret what was passing through Deputy Gorey's mind. I say now he was perfectly honest, and that the majority of these men have come into the possession of the land through grabbing, and here we are, one of the legal Assemblies of the Irish people, and we are going to do justice to the men who

[Mr. Lyons.]

I battered down the homes of our ancestors with the battering-ram and with the help of an enemy Government. Are we going to do justice to these men now by giving them three years' arrears with a slight reduction of 25 per cent.? When you take that into account, that we are going to do justice to those people, I do not see why the Minister for Agriculture or the Government cannot accept this amendment and do justice to the unpurchased tenant. I hope the Minister will accept the amendment, and I hope that, if a division is called for, the Dáil will not have it said that they are out for the grazier and the rancher, and that they have no thought for the unfortunate persons who are the backbone of the nation, the unpurchased tenant, the evicted tenant, and the ordinary worker.

Mr. GOREY: There is just one part of this amendment that I do not agree with. That is the latter portion, where a distinction is made between the man who tills his holding and the man who does not. I do not think that this distinction would be made by the man who knows Ireland. There are portions of it eminently suitable for tillage, and there are vast tracts where tillage could not be carried on—namely, the mountainous and bog districts. With regard to the small farmer, why he should receive better treatment than the large farmer I think it is quite apparent, but we have never been asked anything about divisions on this question of arrears. We are asked to put up figures. Our arguments have been figures enough. For the last three or four years farms have been run at a loss. If the money is not there, where is it to come from? You are asking for money that is not there. I certainly agree with the portion of the amendment that would give some preferential terms to the small farmer, but I cannot agree with the other part, because there are vast tracts of land in Ireland where tillage cannot be carried on. There is no use in trying to make a distinction on those lines, but there is every reason and every justice in making a distinction between the small man and the large man. We have not put down figures, because nobody is able to tender actual figures with regard to tillage and farming generally. The figures must be judged by the profits that come from farming. Any-

body who wants to run a farm of fifteen or twenty acres will very easily find out for himself what the profit is.

Anybody who is not acquainted with the circumstances of the small man has no business talking about him. One must live beside the small man before one can get to know the actual circumstances under which he lives; one has to see what he is able to produce, what his revenues are and what his credits before any kind of solid opinion can be formed as to his actual position. Anyone who wants to legislate on behalf of these people must become familiar with all the figures which this knowledge would give before he can deal with the position of the small man.

Mr. HOGAN: I would like to know from the Deputy whether the Unpurchased Tenants' Association or the Farmers' Union ever made that distinction before?

Mr. GOREY: I never said so. As I have already stated, my anxiety in dealing with this matter, is to save something from the wreck. Deputy McGoldrick, in his speech, drew a picture of a good little boy, I do not know how many years ago, going away with five years' rent in his pocket, with instructions to pay it like a good little fellow. From what I know of Deputy McGoldrick, as a man, I am not surprised that he went away with five years' rent in his pocket and paid it out cheerfully. That does not surprise me, nor does it surprise me that the good little boy has grown up into a good little man. What I do object to is his complaint that when he went away and paid his five years' rent, in a few months' time an Arrears Bill was introduced whereby his neighbours had all their arrears wiped out. I think he used the word "dishonesty" in regard to these other people.

Mr. McGOLDRICK: I did not.

Mr. GOREY: Yes, you did, and I think you also used the word "immoral." According to Deputy McGoldrick all these people were rogues, they were dishonest, and they were immoral and, according to him, the Arrears Bill was introduced in order to relieve the condition of these rogues and dishonest and immoral people.

Mr. McGOLDRICK: What I said was that the legislation was immoral.

Mr. GOREY: That will be very interesting reading for the people of Donegal, or, as I believe the Deputy calls it, Tirconail—very interesting reading indeed for the rogues and the dishonest and immoral people of Tirconail.

Mr. McGOLDRICK: They appreciate honesty in Tirconail.

Mr. GOREY: Deputy McGoldrick told me that I knew nothing about the people of Tirconail, but I think I know more about them than he does. They have entrusted me to look after their interests, and I want to know from Deputy McGoldrick who instructed him to appear for the Unpurchased Tenants of Tirconail, or on whose behalf he was speaking? If he shows me any written authority entitling him to speak on behalf of the Unpurchased Tenants of Tirconail, I am prepared to apologise to him.

Mr. McGOLDRICK: I can show abundance of it.

Mr. GOREY: I would like to see it. The Unpurchased Tenants of Tirconail do not think very much about you.

Mr. McGOLDRICK: I am the man who represents them.

AN LEAS-CHEANN COMHAIRLE: We have nothing to do with what the people of Tirconail think on that.

Mr. GOREY: They will settle the matter themselves when they get the chance.

Mr. O'DONNELL: Which is Deputy Gorey or Deputy McGoldrick the Deputy for Tirconail?

AN LEAS-CHEANN COMHAIRLE: That question does not arise.

Mr. GOREY: Perhaps we may find our way to Sligo yet. You can never tell.

Mr. O'DONNELL: You do not represent it yet, anyway.

Mr. GOREY: I have not said so. I never made the claim that I misrepresented it, as some people are doing at the moment. I again appeal to the Government to take into consideration the

claims put forward for this amendment by Deputy Davin and other Deputies. There is no getting away from this fact that, if you want to talk about equity, you must try to divide the equities as between the landlord and the tenant, and do justice between both. The case has not been put up that the landlord has to meet certain payments, but it is only the landlord's case that has been put up. When you talk about the landlord you mean, of course, the greatest wasters in the country; when you talk about the uneconomic and mortgaged landlord you are simply talking about the most disreputable element in the community; you are talking about wasters, men who want medical attendance for something—I will not mention what I have in my mind—men who lived a certain life, and now we are asked to do justice to these people and to make the small men pay off their mortgages for them.

Mr. DAVIN: I am afraid that Deputy Gorey places a wrong interpretation upon this amendment. He seems to think it is an amendment giving a preference for the future to the people who till a certain amount of land.

Mr. GOREY: No; I do not.

Mr. DAVIN: That is not the position. As I have already pointed out, I presume the Minister will be in a position to enforce the payment of whatever conditions are laid down in this Bill so far as its application to the landlord is concerned. All we ask is that the people who have tilled a certain amount of land or whose valuation is below a certain figure should get the concession which is stipulated in the amendment. The Minister, no matter how polite he may be, and he has been very polite on this matter, cannot deny that at a critical period in the country's history, at a particular time when there was a food shortage, certain people tilled a certain amount of their land, and by doing so they have lost a considerable amount of money, and as a result many of them are now heavily in debt. What we ask is that the situation, so far as these people are concerned, should be relieved by the acceptance of this amendment. The Minister, in turning down this amendment, says he is doing it because of representations that have been made to him by tenants' organisations. If we are seriously to accept the statement of De-

[Mr. Davin.]

puty Gorey here, there is only the one tenants' organisation in the country.

Mr. GOREY: I have not said anything of the sort.

Mr. DAVIN: You stated that you represented 70,000 of the unpurchased tenants of the country. I do not claim to represent the unpurchased tenants, but I take a generous view of my responsibilities in this matter. I should like to point out that it is not for electioneering purposes that I support the amendment. In that connection I am not as much concerned as some people, at any rate. The Minister made some reference to my views on the farmers' attitude. I could not exactly catch what he said.

Mr. HOGAN: I referred to the costs of production.

Mr. DAVIN: All I want to say on that is that I am a farmer's son, and that I worked on the land before I went to school in my bare feet as well as in my boots, and I know the situation exactly.

Mr. HOGAN: The Deputy knows very well that I am not referring to whether he worked on a farm or did not work on it. I stated that I was glad to see the Deputy give his allegiance to the costs of production principle as a principle which should guide us in arriving at various things—rent, wages, and things of that kind.

Mr. DAVIN: I mentioned that in order that the Minister should not be under any misapprehension as to my knowledge of the conditions of the people on whose behalf I speak. Whether it is a coincidence or not, anyone who knows the local circumstances knows that this particular clause would cater for the class of people who live in the area that I represent. Deputy Gorey knows that too, and, as far as I am concerned, I realise that I am discharging nothing beyond my responsibilities in supporting an amendment of this kind. The Minister also said it would be necessary, if this amendment were accepted, to examine every holding, which means I presume, every unpurchased holding. I suggest that is not the case, and would not be the case

if the Minister accepted an amendment of this kind. He also said that the Bill was drafted in such a way as to make provision for the barley producers. He states, and to a certain extent correctly, that the price of barley has gone down to the pre-war figure. But what is the price of the product of the barley? Has that gone back to pre-war price?

Mr. HOGAN: Do you mean pigs?

Mr. DAVIN: I am talking of the products produced from the barley.

Mr. HOGAN: You mean stout or beer!

Mr. DAVIN: I thought you understood what I meant. I meant the difference between the price of the article the barley produced last year and the price of the barley itself. If the price of the barley has gone back to pre-war, it is certain that the price of the product of the barley is not gone back to pre-war. The whole gist of the argument advanced by the Minister is in support of the claim of the pauperised landlords the people who live in Monte Carlo on the interest, not of rents, or of Guinness's shares, but, according to the Minister, on the interest of what they owe. There is no desire, so far as I am concerned, to get the thin end of the wedge in as to the amount of tillage in the future. It is only a question of giving a concession to certain people who, owing to extraordinary circumstances, have suffered, and to the knowledge of the Minister have suffered, and who shall get some consideration over and above the big rancher who is provided for under the terms of the Bill on the same lines as the small farmer.

Mr. JOHNSON: The Minister has based his opposition to this amendment on the ground that everybody had asked him to deal with this question in averages. Well, I do not know what representations were made to the Minister, but I know that representations by the score had been made to Deputies here on these benches that a difference should be made between the treatment of the grazier and the treatment of the small farmer, who in the great majority of cases tills a fair proportion of his holding; so that the repre-

sentations made to the Minister are different from the representations made to us, and just as he is claiming to act upon the representations made to him, we are acting upon the representations made to us. I would like to remind the Dáil that, notwithstanding what the Minister said about the effect of this amendment, notwithstanding the plea that he made for those who did not till last year because tillage did not pay, we are not asking that they should be in a worse position than the position which he himself proposes to put them in.

We are not asking that at all. We ask that those who did go to the expense of tilling, and the small holder who is presumed to have tilled, should be placed in a better position than those who did not, and whom the Minister considers are entitled to 25 per cent. reduction. What is the explanation? Deputy Gorey and others have explained that when you are trying to provide sustenance for three people on a certain holding you are at greater expense than if you are trying to provide sustenance only for one, and the cost in connection with operations of tillage are heavier than the cost in connection with the operations on a grazing holding and inasmuch as there are more people to live out of a grazing holding, there is more difficulty in saving money to pay off these arrears.

Now, the Minister thinks he has scored a point by quoting Deputy Davin's reference to the cost of production. But that is not discovery. We at least know, whether the Minister is aware of it or not, that when five men are employed upon a farm it is a cause for a greater output of cash than if only one man were employed upon the farm. That is no new discovery. For we are main-

taining, and it is at the back of this amendment, as it is at the back of our attitude to this Bill, that the land is there for people to live upon, and that the more people you can provide sustenance for out of the land the better it is for the country, even if the profits are not so great to the individual holder and if the profits are not so great to the grazier. If the opportunities for saving money to pay off these arrears have been reduced by the fact that he tilled rather than grazed, that is a fair case for advantage to be given to that holder, because he is not in as good a position to pay. More people had to live out of the produce than in the case of the grazier. But the contention of Deputy Magennis that there was any attempt to make this amendment the touchstone of our attitude to the Bill, or the touchstone, rather, of our intention to the Bill was quite a misinterpretation of anything I said.

Quite frankly and clearly I said that we were dealing with the question of arrears and that we wished to make a difference in the treatment of the smallholder or the larger holder who tilled and employed labour on his holding, and the large holder who did not employ labour upon his holding, and that that was the touchstone of the attitude of the Deputies who were always insisting that there should be a distinction drawn between these two classes of land-holders. I admit and acknowledge with gratitude that there are portions of the Bill that quite fall in with that conception, but I want the whole Bill to fall in with that conception, and this amendment is designed to amend this Section dealing with arrears, in that direction.

Question put.

The Committee divided: Tá, 18; Níl, 37.

Tá.

Donchadh Ó Guaire.
Seán Ó Duinnín.
Domhnall Ó Mocháin.
Tomás de Nóglá.
Liam de Róiste.
Tomás Mac Eoin.
Seán Ó Ruanaidh.
Liam Ó Briain.
Tomás O Conaill.

Aodh Ó Cúlacháin.
Liam Ó Daimhín.
Seán Ó Laidhín.
Cathal Ó Seanáin.
Domhnall Ó Broin.
Domhnall Ó Muirgheasa.
Risteárd Mac Fheorais.
Micheál Ó Dubhghaill.
Domhnall Ó Ceallacháin.

Níl.

Liam T. Mac Cosgair.
 Gearóid Ó Súilleabháin.
 Uaitéar Mac Cumhaill.
 Micheál Ó hAonghusa.
 Séamus Breathnach.
 Pádraig Mag Ualghaigh.
 Seosamh Mac Suibhne.
 Peadar Mac a' Bháird.
 Seán Mac Garaidh.
 Pilib Mac Cosgair.
 Domhnall Mac Cártaigh.
 Maolnuire Mac Eochadha.
 Eamán Altún.
 Sir Séamus Craig.
 Gearóid Mac Giobúin.
 Liam Thrift.
 Pádraig Ó hGáin.
 Seoirse Mac Niocaill.
 Piaras Béaslai.

Fionán Ó Loingsigh.
 Séamus Ó Cruadhlaoich.
 Críostóir Ó Broin.
 Caoimhghín Ó hUigín.
 Proinsias Bulfin.
 Séamus Ó Dólaín.
 Aindriú Ó Láimhín.
 Liam Ó hAodha.
 Proinsias Mag Aonghusa.
 Eamón Ó Dúgáin.
 Peadar Ó hAodha.
 Séamus Ó Murchadha.
 Seosamh Mac Giolla Bhrighde.
 Liam Mac Sioghairil.
 Tomás Ó Domhnaill.
 Eamán de Blaghd.
 Uinsean de Faoite.
 Séamus de Burea.

Amendment declared lost.

Mr. GOREY: I beg to move:—

In Sub-Section (2), line 22, to add after the word "made" the words:—

"No proof of the existence of the custom of a hanging gale shall be required other than receipts for any two years' rent prior to the year 1920, or the production of the books of the landlord or his agent in respect of the same period. Such books shall be produced on demand of the tenant."

This amendment at least should not give rise to much contention. The purpose is to deal with the hanging gale. In the case of a good many estates in the country a hanging gale has been customary. In some cases it is a half year, but there are cases where it is a year. That has always obtained on estates. We want to have no further proof necessary of a hanging gale than the producing of the rent receipts to show that the date is a half year or a year hence. I think the amendment is one that the Minister should accept.

Mr. FITZGIBBON: Before the Minister agrees to the acceptance of the amendment I would like to draw his attention to the wording of it. The Section deals with estates on which a hanging gale is customary, and the amendment proposes that you should prove that custom by the receipts for any two years prior to the year 1920.

Mr. GOREY: For two years.

Mr. FITZGIBBON: Those two years might 1820 or 1821, or any other two years back to the Flood, as far as I can see from the amendment. Therefore, if

the amendment, or anything on the principle of the amendment, is going to be accepted, some definition ought to be given as to the particular two years that are going to be adduced as proof of custom.

Mr. GOREY: On a point of explanation, this amendment was sent up from Cork and Limerick at the last moment and I had only time to put it in. I believe it is the custom in these counties to have a hanging gale.

Mr. FITZGIBBON: I am not denying that hanging gales are customary on many estates, but that you should prove that custom exists by producing rent receipts of a hundred years ago, which would be admissible under this amendment, does not seem to me to be right.

Mr. GOREY: The word "any" may be left out on the Report Stage.

Mr. FITZGIBBON: We are on the Committee Stage now and that is the Stage for getting amendments into proper order. It might become part of my duty in my ordinary professional capacity to argue some case upon this amendment, and it seems to me perfectly clear that if this amendment passes in this form you can prove that the hanging gale was customary on an estate to-day by producing the landlords' books of 100 years ago.

Mr. GOREY: I take the view that the word "any" was not intended at all—I do not know.

Mr. HOGAN: I take it that what the Deputy wants to get at is to prove this

is the most expeditious manner possible. That is the meaning of the amendment. There is no doubt that the amendment is open to the objection stated by Deputy FitzGibbon, and, I think, that the Bill as it stands is really more satisfactory because Section (19) says:—(1) It shall be the duty of every landlord and of every person receiving rents and profits on his behalf to furnish to the Land Commission within the prescribed time and in the prescribed form such particulars as they may require for the purpose of the collection of compounded arrears of rent and payment in lieu of rent, and the Land Commission shall have power to require any person paying rent to any other person in respect of a holding to give such particulars with respect to the holding as they may so require.

That is to say that the Land Commission have power to compel the landlord to produce his books but we could not agree to the books being produced for any two years.

Mr. GOREY: I do not think the word "any" was meant there.

Mr. HOGAN: We could not bind the Land Commission by saying that they shall only look at books for two years and for a particular two years. We could not agree to that. There would be no reason for shutting out any evidence that the Land Commission might like to get. The books of the landlord will, in ninety-nine cases out of one hundred, prove the hanging gale, and in ninety-nine cases out of one hundred there will be absolutely no dispute. There may be one case out of one hundred where there will be a dispute and, in that event, the Land Commission will have to decide the custom. Hence, it is not right that any evidence should be ruled out, especially any evidence that might be as much in the interests of the tenant as that of the landlord. We are proving the custom. In the particular case where there would be a dispute it might be of importance to the tenant to produce other evidence besides the landlords' books. I have convinced myself that the Bill as it stands in Section 19 is better than the amendment. As the Bill stands the landlord must produce his books. Say that the Land Commission rule in 100 cases that there is a

hanging gale. One case may be disputed. All the parties, and especially the tenant, should be in the position of bringing any evidence they like. I think the Bill covers the points better than the suggested alteration.

Mr. GOREY: I know that there are specific cases covered by the amendment, but I am not able to give you the details as I am not aware of them. I do not know anything about the wording, as the amendment was drafted in Cork and sent up to me. I do not know the circumstances, but I know that they were sufficient to animate the men who sent up the amendment.

Mr. HOGAN: Section 19 gives complete power to the Land Commission to have the books produced. In fact the whole section gives the Land Commission complete power to make the landlords produce anything they wish, and the Deputy knows that the books and the receipts would show if there was a hanging gale. In any case, where there is a dispute why rule out evidence that might be in the interests of the tenant? "Any" two years would be completely out of the question.

Mr. GOREY: I do not like the word "any" myself. I think it would be wrong.

Mr. FITZGIBBON: I might say that the Minister's view is right, and I give one instance that has occurred to me at the moment. I rather think that in many cases where a hanging gale was the custom that during the fat years 1918 and 1919 tenants did in fact pay up these hanging gales as they were then able to afford to do so, and did not like to have it hanging over them. It would be rather unfair where there was a hanging gale to allow that to be wiped out by the production by the landlord of receipts for that year showing that a tenant had paid in full and therefore alleging that he was not entitled to the hanging gale. I did not make any comment at all from the point of view of attacking the tenants or protecting the landlords. I only made a comment on the wording of the amendment. The Minister's explanation, I think, gives the tenant all the protection he can possibly want.

Mr. GOREY: If the Minister will not accept the amendment I suppose I had better withdraw it.

Mr. HOGAN: Deputy Gorey should consider that. The point made by Deputy FitzGibbon did not occur to me. Consider the case where the tenant paid the hanging gale in 1918, the books might show that it was paid up while the custom might be there, and your amendment would rule the tenant out.

Mr. GOREY: I am at a loss for an explanation as the amendment does not concern me personally, or any of my constituents, but some people down in Cork and Limerick.

Mr. HOGAN: The amendment might suit certain people, and might be a great injustice to tenants in other parts of the country. Section 19 makes sure that tenants will have the benefit of the books or any other evidence that they like to bring forward.

Amendment, by leave, withdrawn.

AN LEAS-CHEANN COMHAIRLE:

Amendment No. 23 depends on No. 21, and falls with it. Amendment No. 24 was dependent on Amendment 20 and falls with it.

Mr. FITZGIBBON: I move: In Sub-section (4) to insert after the word "Income Tax," line 32, the words "less the usual deduction of one-eighth." I am afraid this amendment is open to criticism of very much the same kind that I ventured to make on the last amendment. I am afraid it does not fit in very well in the place I proposed, and I am not at all sure that it carries out the object I had when putting it down.

The deduction of one-eighth per cent. was allowed, or has hitherto been allowed, in certain cases, and it appears to me possible that it might be contended by the Inland Revenue that the compounded arrears of rent is not really rent at all but is some other form of income and that, therefore, the deduction of one-eighth per cent., which the receiver of that rent would have been allowed, would not be granted to him, because it was not really rent but was some compounded payment in lieu of rent. I put down this amendment rather for the purpose of directing attention to that point and for ascertaining from the Minister whether these compounded arrears were or were not to be treated as if they were the rent that they represent. I could not find any place in the Bill in which the provision for this deduction should be made except in

Section 16 and again in Sub-section (4) of Section 17, and therefore I put down the amendment in these two places in order to ascertain from the Minister whether or not it was his intention that this deduction should be allowed in future in the case of compounded arrears of rent. I formally move the amendment in order to get that information from him.

AN CEANN COMHAIRLE resumed the Chair at this stage.

Mr. HOGAN: I can give the Deputy an undertaking that the same deduction will be allowed in respect of compounded arrears of rent as would be allowed in regard to rent. I think also, that the compounded arrears of rent are the same thing, but in any case we will not refuse deductions which would be allowable in respect of the amounts of rents and which is considerably less than the rent.

Mr. FITZGIBBON: That satisfies me, and I ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Motion made and question "That Section 16 stand part of the Bill," put and agreed to.

SECTION 17.

(1) In the case of every holding to which this Act applies rent shall not be payable by the tenant in respect of any period after the gale day next preceding the date of the passing of this Act. There shall be payable by the tenant to the Land Commission as from the gale day next preceding the date of the passing of this Act an annual sum in lieu of rent equivalent to

75 per cent. of the annual rent to which the holding was subject at the passing of this Act, which sum is hereinafter referred to as "payment in lieu of rent."

(2) Payment in lieu of rent shall be collected by the Land Commission in accordance with rules made by them.

(3) Payment in lieu of rent shall continue to be payable up to the appointed day.

(4) There shall be payable by the Land Commission to the person or persons entitled to receive the same a sum equal to the amount to be collected as payment in lieu of rent, from the gale day next preceding the date of the pass-

ing of this Act up to the appointed day, less income tax and such deduction towards cost of such collection as the Land Commission shall consider reasonable and proper. This sum, less such deductions as aforesaid, shall be paid in equal half-yearly instalments and in accordance with rules made by the Land Commission.

(5) If the interest of any person entitled to receive the rent of a holding or holdings shall not be sufficient to constitute him a person having power to sell to tenants under the Land Purchase Acts, any rent payable by him to the next superior landlord in respect of the holding or holdings shall be reduced by 25 per cent., and, if necessary for the purpose of ascertaining the rent payable by such person in respect of the lands comprised in the holding or holdings, any rent payable by him shall be apportioned by the Land Commission as the justice of the case may require. Similar provisions shall apply and proportionate reductions shall be made in the case of any superior rents payable by any superior landlords who have not an interest sufficient to constitute them persons entitled to sell under the Land Purchase Acts.

Amendment:—"In Sub-section (1), line 42, to insert after the word 'Act' the words: 'in the case of any tenant the total rateable valuation of whose holdings exceeds thirty pounds, or of whose holding more than one-half is permanent pasture, or 50 per cent. of the annual rent to which the holding was subject at the passing of this Act in the case of any tenant the total rateable valuation of whose holdings does not exceed thirty pounds or of whose holdings not more than one half is permanent pasture.'"

Mr. DAVIN: I formally move this amendment.

Mr. HOGAN: I cannot accept this amendment. I do not propose to go into the reasons, which I have stated already on the amendment to Section 16.

Amendment put and lost.

Amendment by Mr. FitzGibbon:—"In Sub-section (4), to insert after the words 'Income Tax' the words 'less the usual deduction of one-eighth.'"

Mr. FITZGIBBON: That amendment

goes along with the other one, and I ask permission to withdraw it.

Amendment, by leave, withdrawn.

Amendment by Mr. FitzGibbon: "To delete Sub-section (5)."

Mr. FITZGIBBON: Since I put down this amendment I have received explanations which have satisfied me that it is unnecessary, and I beg leave to withdraw it also.

Amendment, by leave, withdrawn.

Motion made and question put:—"That Section 17 stand part of the Bill."

Agreed.

SECTION 18.

(1) The Land Commission shall have for the recovery of compounded arrears of rent and payment in lieu of rent the same remedies as a landlord has for recovery of rent as well as the same remedies as they have for the recovery of unpaid instalments of a purchase annuity.

(2) The Land Commission may, if they think fit, employ in the collection of compounded arrears of rent and payment in lieu of rent any land agent, solicitor or land clerk nominated by the immediate landlord, or in default of such nomination, selected by them on such terms as to remuneration and otherwise as may be prescribed by rules made by them.

Amendment by Mr. Duggan:—

"To insert a new Sub-section after Sub-section (1), as follows:—"Where, owing to the death or absence of the tenant of a holding or otherwise, a difficulty arises in ascertaining in whom the tenancy of a holding is vested, the Land Commission may, if the tenant is dead and there is no legal personal representative of such tenant, or no legal personal representative whose services are available, appoint any person to be administrator of the deceased tenant, limited to the purposes of all proceedings under this Act in relation to the holding, up to the appointed day, and if the tenant is absent, or if, in their opinion, it is otherwise necessary, nominate any person to represent the tenant for the purposes aforesaid. The person so appointed or nominated, while acting in such capacity, shall have the right as against all parties to enter into receipt of the profits of the holding or of the rents payable by the

sub-tenant thereon, and shall be liable to the Land Commission for compounded arrears of Rent and Payment in lieu of rent payable under the provisions of this Act."

Mr. DUGGAN: I move the amendment, which provides that where a tenant dies, leaving no legal personal representative, or even in the very unlikely event of the tenant disappearing, that the Land Commission may appoint a person to represent the tenant for the purpose of proceedings under the Act.

Amendment agreed to.

Motion made and question put:—

"That Section 18 as amended stand part of the Bill."

Agreed.

Motion made and question put:

"That Section 19 stand part of the Bill."

Agreed.

SECTION 20.

(1) Where a holding is sub-let in whole or in part the rent payable by any sub-tenant to the tenant thereof shall, as from the gale day next preceding the date of the passing of this Act, be reduced by 25 per cent.

(2) No tenant shall be entitled to recover from a sub-tenant any greater sum in respect of arrears of rent than a sum ascertained in like manner as compounded arrears of rent are to be ascertained under this Act.

(3) This section shall not apply to any sub-letting made for the purpose of temporary depasturage, agistment or conacre, or for temporary convenience or to meet a temporary necessity.

Amendment by Mr. W. Sears:—

"In Sub-section (1), to insert after the word 'holding' the words 'to which this Act applies.'"

Mr. DUGGAN: In the absence of Deputy Sears I beg to move this amendment, which is merely a drafting amendment.

Amendment agreed to.

Mr. O'CONNELL: I beg to move that Sub-Section (3) be deleted. Clause 20 allows the reduction which the tenant gets, in case this Bill applies to him, to be passed on to a sub-tenant of his, but it shuts out, in Sub-Section (3), a class of people who are, in my opinion, entitled to get this relief also. In some parts of the country small tenants, tenants of uneconomic holdings especially, take

conacre on the farms of larger tenants to a very considerable extent, and these people would be benefitted if this Section were deleted. I think that as the tenant gets a relief himself he should pass on the relief to those who are paying him rent, even though it might be of a temporary nature. In some places, as a matter of fact, although conacre is of a temporary character legally or nominally, still there are cases where small tenants bordering on large farms have conacre year after year, and if the tenant of such a farm purchases his land and gets a reduction I think that benefit should be passed on to these as well as the regular sub-tenant provided for in Sub-Section (2).

Mr. HOGAN: I do not think the Deputy is alive to the full implications of his amendment. You have a number of temporary lettings for several different reasons and if you pass on this reduction as a general rule, in perhaps the great majority of cases you would be doing a very big hardship to people who make temporary lettings for all sorts of reasons. Take the case of a man who dies and who leaves a wife and young family, none of them able to take up the land. It is a purely commercial transaction. They get the person who takes a temporary letting as a tenancy, a purely commercial transaction, making no claim whatever to the land, having no tenant right, not even a future tenancy, and having it simply because he thinks he can make a profit out of it at the rent. This Bill deals with all tenancies, even future tenancies, but it does not deal with the sort of people who take land in this fashion temporarily as a gamble, as they do in most cases—as a business transaction, in order to make a profit. They look into every aspect of it, and as business men they make their calculations, and make quite sure, as far as they can look forward, to making a reasonable profit out of it. The commonest case of all is the case I have just mentioned, because for one reason or another, perhaps owing to shortage of cash, perhaps the tenant is dead and his wife is unable to run the farm, she makes a temporary letting, and she is probably not able to make nearly as much money as if she were working the farm herself. She lets it to a man who has capital to spare, and who hopes and expects, and probably makes sure, that he takes it at a rent which will leave him a

fair profit. It would not be right or fair to apply the provisions in regard to the reduction of rent to such cases. These provisions deal with cases of people who have a certain right to the land over and above the particular agreement which began the tenancy, and it would be most unfair in cases like these that are not being dealt with by the Bill at all to extend the same benefits to them. If the Deputy will think out the cases that are likely to come under that section, then, I think, he will agree that it would be unfair to reduce their rents. They are not tenants and they have no claim anyone can think of, morally or otherwise to the land. There may be a few cases of conacre tenants who have not enough land and who are forced to take land in this fashion. We are trying to deal with them otherwise than by the Bill. We are taking all the powers we can for the relief of congestion, and we hope that will not happen in future. By far the greater number of cases that come in under Sub-section 3 are the kind I mentioned, such as owing to the death of the tenant, his wife is unable to work the land and she lets it to a business man who takes it as business transaction, after going into all the facts and figures, and generally who is able to make a far bigger profit than the tenant who is not able to make anything like as much as she or he would make if in a position to work the land.

Amendment put and lost.

Motion made and question put: "That Section 20, as amended, stand part of the Bill."

Agreed.

SECTION 21.

(1) Subject to the provisions of this Act and notwithstanding anything contained in any other enactment, all tenanted land wherever situated and all untenanted land situated in any congested districts county and such untenanted land situated elsewhere as the Land Commission shall, before the appointed day, declare to be required for the purpose of relieving congestion or of facilitating the resale of tenanted land, shall by virtue of this Act vest in the Land Commission on the appointed day, in the like manner and with the like consequences as if vesting orders under the Land Purchase Acts had been made on the appointed day in respect thereof

in pursuance of subsequent purchase agreements entered into by the Land Commission with the respective owners of the lowest interest in the land constituting an interest saleable under the Land Purchase Acts, at a price fixed by or under this Act.

(2) The foregoing sub-section shall not apply to:—

- (a) Any land which has been purchased under the Land Purchase Acts or is on the appointed day the subject of an actual purchase agreement thereunder lodged with the Land Commission before the date of the passing of this Act, or
- (b) Any land which is not substantially agricultural or pastoral or partly agricultural and partly pastoral in character, or any land comprised in a holding the main object of the letting of which was for a residence, or
- (c) Any parcel of untenanted land which is a demesne, home farm, park, garden, or pleasure ground or any holding usually occupied by a person regularly employed on such demesne, home farm, park, garden or pleasure ground, or
- (d) Any holding or parcel of untenanted land which in the opinion of the Land Commission possesses a substantial value or utility whether potential or actual as building ground, or
- (e) Any land which is vested in or held in trust for the State or any Government Department, or is held by any local or public authority for the purposes of their powers and duties as such, or is held by any corporation for the purposes of a railway, tramway, dock, canal, water, gas, electricity or other public undertaking.

(3) Notwithstanding anything contained in the foregoing sub-sections, where the Land Commission before the appointed day declare in the prescribed manner that any land wherever situated, hereinbefore excluded from the operation of this section (other than land which comes within the description in Clause (e) of sub-section (2) of this section), is required for the purpose of relieving congestion, then such land shall

vest in the Land Commission pursuant to this section.

(4) For the purposes of this section the expression "home farm" means a farm used for the convenience or advantage of the landlord's residence and in connection therewith, and not merely as an ordinary farm for the purposes of profit.

Mr. DE ROISTE: I move: "To add after the word 'land,' Sub-section (1), the words 'or such land, however owned or held, as may be required for the reinstatement of a former tenant thereof, or his representative, under Section 28.'" I desire to be brief in proposing this amendment, and I do not desire to dilate on the hardships suffered by evicted tenants, or to make any appeal to sentiment in this matter. The purpose of the Bill, as I take it, is declared in Section 21, that the land be vested in the Land Commission for the purpose of relieving congestion, and facilitating the purchase of untenanted land. The purpose of my amendment is that power be also given to the Land Commission to deal with cases of evicted tenants. It is the first of a series of amendments. The others follow from this one if it is accepted. The amendment I propose does not mean that automatically the question of the evicted tenants is raised. It means that the power is given to the Land Commission, and the officials connected with the Land Commission, to investigate the cases. If they are fraudulent cases naturally they will be thrown out. If they are genuine cases it is only justice to those who fought the land war in the past that their cases should be considered. That is the purpose of the amendment.

Mr. O'CONNELL: I was wondering whether, on a point of order, it would facilitate matters if my amendment were taken first? It includes the matter in which Deputy de Roiste moves, but mine is of a rather wider nature, and it is certainly intended to include what is covered in Deputy de Roiste's amendment.

AN CEANN COMHAIRLE: "Or for the development of agriculture or otherwise in the public interest." Deputy O'Connell is going on the assumption that it would be to the public interest to reinstate the former tenant or his representative.

Mr. O'CONNELL: Yes. Provision is made that that may be done under Section 28.

Mr. DE ROISTE: As a matter of order, I think, Deputy O'Connell's amendment should have come first, as his is the wider one. If the wider one is not carried then the narrower one could not be proposed.

Mr. HENNESSY: I think Deputy de Roiste's is a reasonable amendment.

AN CEANN COMHAIRLE: Wait till we decide the question of which amendment comes first. Will Deputy de Roiste allow his amendment to stand or fall by Deputy O'Connell's?

Mr. DE ROISTE: After his, I am quite satisfied.

AN CEANN COMHAIRLE: If Deputy O'Connell's amendment is carried Deputy de Roiste's will not be moved?

Mr. DE ROISTE: Yes. If his is carried it covers my amendment. If his is defeated then I propose my amendment.

AN CEANN COMHAIRLE: Then we will take Deputy O'Connell's amendment first.

Mr. O'CONNELL: I move: "In Sub-section (1), to insert after the word 'land' the words 'or for the development of agriculture or otherwise in the public interest.'" The Section provides that land may be automatically vested in the Land Commission, but only for the specific purpose of relieving congestion. Section 21 provides that all tenanted land shall be acquired, and it, of course, will be ordinarily sold to the tenant who occupies the land. It provides also that all untenanted land in the Congested Districts themselves will be used to enlarge congested holdings. It also provides that untenanted land in other districts may be acquired, but only, as I say, for the specific purpose of relieving congestion, or facilitating the sale of untenanted land. Land may be acquired for other purposes.

The purpose for which Deputy de Roiste raised amendments is intended for the sale to the evicted tenants or for the provision of holdings for evicted tenants. The provision is made in Section 28 by which advances may be made or provision may be made to provide land for the evicted tenants, and also under Sub-section (1) (d) of Section 28 for labourers. Under (E) any other

person may get advances or holdings may be provided for them. There is no provision, however, whereby land could be got except in the rather slow and tedious process provided for under Section 32 I think. There is no provision by which land could be got for this specific purpose. We think that provision should be made under Section 21 by which land could be acquired by the Land Commission for such purposes as are mentioned in Section 28. The land could be automatically acquired under the provisions of this Section. There are other matters too for which it might be highly desirable to acquire land or small portions of land. But the Land Commission may find itself debarred by reason of limitations in this Section. During the Second Reading I mentioned that it would be possible to have in certain areas model farms or small plots which could be used for educational purposes in connection with a scheme that may be developed or introduced for agricultural education in connection with a county or district school or they may require small plots in connection with the National schools. That would be another purpose. That land must be provided for out of the tenanted land that is retained by the Land Commission. Naturally the tenants will object to that. Or that land might be provided for out of untenanted land that will be purchased, and this does not fix the terms of purchase and does not provide for arbitration as to the price and it may not operate compulsorily. The Land Commission may find themselves in this position that they would be able to acquire a large farm of one hundred and fifty to two hundred acres of untenanted land to relieve congestion. But if it wanted a quarter acre plot for experimental purposes or a few acres for a school farm it would have to go through a tedious process set out in Section 32. That is why I suggest that the words set out in the amendment should be inserted in this Section: That is that they have a right to acquire land for the development of agriculture or otherwise in the public interest. The matters which can be included in that would be at the discretion of the Land Commission and I think it would give them a bigger scope than what they have at present under this Section.

Mr. HOGAN: The Amendment reads "or for the development of agriculture or otherwise in the public interest" the Land Commission is to have compulsory powers to acquire land not only for the relief of congestion and for facilitating the resale of untenanted land but also for the development of agriculture and in the public interest. That is an extraordinarily wide clause. This is a Land Purchase Bill. It proposes to buy land from the owners and to resell it to tenants for agricultural purposes. Deputies should not endeavour to make this Bill a Bill for the Acquisition of Land for all purposes. That is unsound. When we legislate we should at least know what we intend to do. Apart from any other consideration there would be a great many objections to giving the Land Commission such wide powers. They can acquire land for a railway, and not only could they acquire land for a railway but they could acquire congest holdings and pay the owners in accordance with the terms set out in the Bill. Very probably there would not be the same unanimity about the price then. They can acquire land for any conceivable purposes, public buildings, railways, anything else you like to think of. There is nothing to stop them. All the terms of this Bill would apply to such land regardless of the purposes for which it was acquired; for something never intended in the Bill, and acquire it from people from whom it was never intended to take land. We should confine ourselves to Land Purchase. We should make sure that we have at least a fair general idea of the powers we are giving the Land Commission or any Government Department under them, though the development of agriculture might mean anything else. Remember you are giving these powers over all lands, over the lands of tenants, over lands of landlords and fee farms; all sorts and conditions of land for agricultural development at the discretion of a public department or otherwise in the public interest. Surely that would be giving almost arbitrary powers to the Land Commission and powers that may be capable of being abused. As a general principle it is unsound to legislate in such general terms. I want the Dáil to confine the Bill to Land Purchase, and if you want to take land for railways or any other purpose let us

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pass an Act. Let us go into the details of the case and know exactly what it is we want to do. Deputy de Roiste is anxious to see that there is sufficient land provided for the evicted tenants. That is strictly one of the purposes of this Bill. He is entitled to be assured that we have made provisions to acquire sufficient land to deal with all genuine cases of evicted tenants within the period which is prescribed in the Bill. I want to make one thing clear in the Bill and that is that it is primarily for the relief of congests. We have been talking all the afternoon and evening about the arrears and about the question of price, and on the question of price we spent a long time, but the real question, the real sore that is to be salved is this of the congests. This problem of the congests is the real question to be dealt with. I am hopeful, not so much that the tenants will find a big difference in their rents, but that they will find themselves in economic holdings as a result of this Bill. If that is done the real difficulty will be solved. It is quite easy to make the tenants the owners of their own holdings and to make advances to landless men, and put them on holdings which will give them a chance of succeeding. But the problem of the congests is one of immense difficulty, and I want to make it clear that it is the problem to which we gave the greatest care. I want to show that the congests have first claim. There are a great many difficulties. There is the difficulty, as I pointed out before, that if you even have the land, you may not have enough of land in the right place to meet that. We are taking the power to take land already purchased. I may say that only in extreme cases will we go to land already purchased, and only where we could get no other. But we are only taking these powers. Even with these powers we will not be able to deal with congestion in the West, or to deal with it in the neighbourhood of particular estates where congestion exists; there will have to be migration. You have the difficulty there that congests are not willing to leave and the second difficulty that you have the landless man and other possible aspirants to land in the neighbourhood to which they are going, hostile to them. We must do everything we can to remove these

difficulties, if we are to solve this problem of congestion. I think that we have done a good lot to remove these difficulties, both from the point of view of the migrant difficulties that will be met by migrating the landless men and the tenant in the neighbourhood to which he has been migrated. We must make it perfectly clear in the Dáil that we are going to deal with congests first. Congests have a greater claim than evicted tenants. A large number of evicted tenants have already been dealt with. There are a large number still to be dealt with, but we cannot hope to go back and remedy all those wrongs which were done for the last 30 years. We are not in a position in the country to help every person. We are not in a position to pay consequential damages to people whose property has been destroyed within the last 3 years. We do not pretend that we can. We are not able to remedy all the grievances, even with regard to evicted tenants, that have accumulated for the last 40 years. Further, we have to take the country as we find it. We have to remember that a number of vested interests have grown up around certain holdings. There are cases where tenants were evicted long before '81, and I know that Deputy Liam de Roiste has tabled an amendment asking us to go back long before '81. There are cases where tenants were evicted from holdings at present in the possession of religious orders and public establishments of all kinds. But there were tenancies that changed hands five times between 1870 and 1881. There were people who came in 20 years ago and bought some tenancies for more than their full value, and with the consent of everyone. We could not take those tenancies away without paying compensation. Further, there are evicted tenants' holdings belonging to people who are living or whose representatives are alive, and we could not place those back, because if they were in occupation of those holdings possibly we would have taken them from them to relieve congestion. All sorts of vested interests have grown up within 30 years, and we cannot hope to wipe them out, and make things right as we could 40 or 50 years ago. If we face the country as it is at the moment with the big problem of congestion, with thousands of tenants huddled together on the West Coast of Connaught, and prac-

tically in all parts of the country, and if we deal effectively with that, and go on to deal with the resources at our disposal with the evicted man later, we will be taking the problem in its proper sequence. In Clause 21, to give you an idea of the problem, we are automatically taking up every perch of untenanted land in the province of Connaught, in Kerry, in Donegal, part of Cork and Clare, and yet that will not be sufficient to deal with the congestion in those particular areas. We go practically outside those counties because we can acquire the land compulsorily wherever we require it, and we can take up and acquire demesnes or even purchased holdings where we require them, and where we can get no other land. Although we have to take up automatically all the land in the Congested District counties I have named, yet the land will not be sufficient to deal with the congests within the Congested Districts. Nevertheless we will be able to reinstate a considerable number of evicted tenants in those districts on those lands, and we will be able to sell to landless men a considerable number of holdings for this reason. On one estate there will be very little congestion. You buy an estate, you deal with congestion, you may only have 4 or 5 holdings to deal with, and may have 30 parcels of untenanted land. You may bring in a congest there or put in landless men or representatives of the evicted tenants. Take the case of another estate. Here you may have far less land than would relieve congestion. The first case may be at one end of the county, the second at the other end. It may be more convenient to go outside Connaught and migrate the congests to where you find sufficient land in some other parts of the country. In any case congestion is so scattered and variable that you have to buy untenanted land practically everywhere for its relief. The largest percentage of the evicted tenants come from the province of Connaught. Can we do more in that than take up every perch of untenanted land? What else in an Act of Parliament would meet the situation in a better way or give the tenants better terms? Let the Deputies consider that. It is very nice to be putting in big words about the development of agriculture and evicted tenants and all the rest of it in Acts of Parliament. Nothing you could

put into that Bill would do any more for the evicted tenants that were evicted from Connaught than we have done already, because we have arranged to take up every perch of untenanted land in Connaught. A somewhat similar process will operate outside if the Bill is taken into operation. Practically everywhere untenanted land will be taken up. We will deal with the congests first, the evicted tenant next, and the landless men after. We cannot take the risk of leaving the congested districts as they are, and we cannot deal with the problem in any other sequence than by dealing with the congests first, then with the evicted tenants, and then the landless men. If I am right practically all the untenanted land will be cleared for the purposes of the Bill. We can do no more. If you agree with me that the sequence is right—congests, evicted tenants, and then genuine landless men—and if you agree with me that we will be able to break up practically all the available land for the relief of congestion, even though when we take it up we will not be able to deal with all landless men, then I cannot see how you can improve the Bill by anything else.

You will merely raise false hopes; you will merely make the difficulties greater; you will make the difficulties of migrating congests greater.

Mr. JOHNSON: I hope I have misunderstood the argument of the Minister because it seems to lead to this conclusion, that the problem of relieving congestion will eat up all the untenanted land that may be taken in any part of the country.

Mr. HOGAN: That is not exactly what I said.

Mr. JOHNSON: I am glad to hear that.

Mr. HOGAN: I tried to explain the point. If you take the province of Connaught, where we are taking up every perch of untenanted land first, what is going to happen there? You have an estate where there are three or four congests and you find you are able to deal with them and have hundreds of acres of land over. You must take up the whole estate. You have taken it up automatically and you find you are able to deal with three or four congests. Over and above that you have 7 or 8 parcels of land. It is open

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to you to bring into that land migrants from other estates. It is also open to the Land Commission to say: "well it would be more suitable to give this land to the landless men of the neighbourhood and to migrate the congests that exist elsewhere in the congested districts to some place outside the congested districts." They might be on the borders and they might go outside. The point I am making is you will have to take up all the land. Congestion is so variable and so widespread; it is more intense in one area, it is less intense in another area. So far as Connaught is concerned you will have to take up all the untenanted land in order to deal with the problem there. Even though you have taken up all the untenanted lands, you will not have sufficient land to deal with all the congests, and you will find it necessary to send some of them outside. You will also find in your rearrangements that it would suit better to give certain holdings to landless men on an estate rather than bring in congests to it, and as a compensation for that to take out congests and put them somewhere else. It is a matter of rearrangement. Outside the congested areas, let us take it that the Land Commission buy 1,000 acres of land and that acreage is held under the one title. They have to buy the whole of it; they are not going to buy 2 or 3 holdings out of it. They may require only 50 acres of that for congests. There may be one congest in the neighbourhood and when he is dealt with, the balance is all for landless men. Though they acquire the land compulsorily for the relief of congestion, they buy it because it is held under one title; it is just one estate, one farm, one parcel of untenanted land. They buy it for the relief of congestion. There may be 1,000 acres in it and they may require only 200 acres for the relief of congestion, but they must buy it all. They dispose of the 200 acres for the relief of congestion and they have the balance for landless men. They have acquired the whole parcel—that is the technical name—the whole estate if you like, for the relief of congestion; but they will find that they have large areas which they do not require for relieving congestion.

Mr. JOHNSON: I see the point of the

Minister more clearly. It seems to me that much of the argument would tend to support the object of the amendment—that there should be power given for such untenanted land to be acquired outside of these parcels on compulsory terms for such purposes as are admittedly in the public interest—if you like in the interests of agriculture, if one likes to confine it to agricultural purposes. That is the general idea underlying the amendment; but there may well be needs which would require the acquisition of land for this purpose even to fit in with the case the Minister has made. Take the sequence in Section 28. In paragraph (c) we find "any other person to whom, in the opinion of the Land Commission, an advance ought to be made." If the opinion of the Land Commission were that an advance ought to be made to a certain person or persons, and that land could not be acquired under the terms of the Bill in the place where these persons would be inconvenienced or benefited, then there should be within the Bill provision for the acquisition, under the terms of the Bill, of such untenanted land as they may consider desirable. We have in mind purposes such as has been mentioned by Deputy O'Connell—the school farm, for instance, the case of landless men or labourers, who may well be in the opinion of the Land Commission, persons to whom advances ought to be made. But there may be no untenanted land, at least there may be no land acquired under the scheme for the relief of congestion which may be convenient for the occupancy of those people to whom the Land Commission think advances ought to be made. There is no intention in this amendment, I am sure, to defeat the intentions or desires of the Minister in the administration of the Bill. It is honestly intended as an improvement, and to meet what we conceive to be the intentions of the Minister; but the restriction he has spoken of would deprive the Land Commission of the power to acquire land except at prices which might well be exorbitant inasmuch as they have to be by agreement, and there is no appeal. The case that is made is that the ultimate object of the Bill is to secure land purchase for the development of agriculture. Surely, it is not a very great extension, or is not incompatible with the general intention, that the development of agriculture

should be one of the purposes for which land might well be acquired under the Bill in addition to the relief of congestion. I think the amendment is distinctly in accord with the intentions of the Minister, as he has himself outlined, and I am rather astonished that he should resist it, though I think he resisted it because he imagines there is some ulterior purpose in it.

Mr. FITZGIBBON: I do not see why this amendment should be passed. If I happened, instead of being what I am, to be a forty-acre freeholder—not a landlord at all, but a person who, by mere accident, happened to be in possession of 40 acres of freehold land, which I farmed and worked in the ordinary way—I see no reason why the Land Commission, at a price to be fixed by themselves, should take my 40 acre farm from me in order to give it to somebody else, or to set up an experimental farm, or to use it for what they themselves might consider to be a public purpose. This amendment would confer power on the Land Commission to take the farm from any man who owned it and farmed it, and whose forbears had owned it and farmed it from time immemorial, at their own price, in order to make it an experimental farm, or to give it to an evicted tenant who never was evicted from it at all, and who never owned it. If a public body are going to take land for public purposes in that way, they ought to take it at the price which the owner would get for it in the market. This amendment might apply to the owner of any plot of land, however small, in any part of the country. It does not seem to me to be the sort of amendment that should be put into a Bill to enable tenants to buy out their holdings, and to provide from persons who have too much land in Congested Districts economic farms for the congested.

Mr. LYONS: In supporting this amendment I would like to ask the Minister if he takes into account the large farms that are outside the province of Connacht. I know a particular farm of 770 acres on which there is a landlord and tenant. The Minister may call that tenanted land, because there is one employé. The owner was prosecuted for the licence of the dog that the man takes with him around the land. Is it really democratic, in any shape or form, to

allow a person like that to retain possession of 770 acres of land?

Mr. HOGAN: Read the Bill—Section 27.

Mr. LYONS: I have read Section 27. There are many people living in the vicinity of that ranch, and it is but right that it should be divided. I would like to ask the Minister, now that he admits in this Bill that the evicted tenants should be reinstated, does he realise the necessity of giving these evicted tenants compensation for the time they were out of their farms, through being illegally evicted?

AN CEANN COMHAIRLE: That is another question altogether.

The PRESIDENT: How much would the Deputy give them?

Mr. LYONS: If he gave them as much as he gave the landlords, they would be highly compensated.

Mr. O'CONNELL: Under Section 28 provision is made for advances and holdings for several classes of people. That includes evicted tenants, labourers, landless men and, generally speaking, under 1 (c) of that Section, "any other person to whom, in the opinion of the Land Commission, an advance ought to be made." Power is given to the Land Commission to acquire compulsorily and automatically such land as may be required for the relief of congestion. I unhesitatingly agree with the Minister when he says that the relief of congestion is the most important thing to which this Bill refers, and the most important work it sets out to accomplish. There is no difference whatsoever about that. But suppose the Land Commission finds that it wants to give land to evicted tenants, how is it to proceed? The only way, if it has not enough land to relieve congestion and to give holdings to the evicted tenants, is to provide for the evicted tenants through the operation of Section 32. In that case, it can only acquire the land after agreement with the owner as to price. There is no appeal to arbitration; and if the owner is not agreeable to accept the price offered, or to accept the market price, as Deputy Fitzgibbon mentioned, they cannot compel the owner of this land under Section 32 to hand it over, even though they may want it for the evicted tenants. All that

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this amendment proposes is that, if such land is wanted for that purpose, or for the other purposes set out in the Bill, there should be power to acquire it.

As a matter of fact, I only suggested one additional use for which the land might be required—school plots or school farms. All the amendment seeks is that power should be taken under Section 21 to acquire land if required for any of these purposes. The Minister read into the amendment—rightly, perhaps—things that were never intended. It was not intended—though the wording might lend itself to that reading—to deal with any purposes outside agricultural purposes, pure and simple. I was not thinking of railways or houses. The only object I had in mind was that the Land Commission should have power to acquire land for the purposes which the Minister has set out in his own Bill.

Mr. WARD: There is one feature of this question in which I am particularly interested, and that has reference to the evicted tenants. I had intended raising this question under Section 28, but as it has been raised under Section 21, I would like to get an assurance from the Minister in respect of a certain body of evicted tenants in which I am specially interested. The Minister in his statement suggested that congests have a better claim than evicted tenants, that there would not be sufficient available land to deal with congests in the congested counties, and that they would have to go outside these counties to provide for the congested tenants. He quoted certain cases of tenancies which had changed hands five or six times since 1881.

I want to give a case of an estate from which the tenants had been evicted, but the estate is still in the hands of the landlord, and I should like to get an expression of opinion from the Minister for Agriculture as to what exactly is going to happen in the case. I am perfectly satisfied with the Bill as it stands, because the land on that estate will pass into the hands of the Government and the Land Commission, and then the question arises how it will be dealt with. The estate to which I desire particularly to call attention is known as the Adair Estate and from this estate fifty or sixty tenants with their families were evicted

wholesale in the year 1860, and the estate was turned into a deer-park by the owner, John Adair. That land is still a deer-park, and the descendants of the tenants, and some of the actual tenants, are alive still and are living round the neighbourhood, others are scattered in foreign countries. Section 28 of this Bill deals with persons evicted 25 years before the passing of the Act of 1903. That does not carry us back to the year 1860. In addition it deals with tenants evicted on ejectionment for non-payment of rent. I do not want to go into the history of this case, but anyone who knows anything of the history of the Land War in Ireland will find the record of this case of the Adair Estate. It was really a question of spite on the part of the landlord against the tenants; it attracted great attention at the time, and was well known throughout Ireland. It was not a question of non-payment of rent, and, therefore, would not come within paragraph (c) of Section 28; it may come within paragraph (e), but by that time probably there would be no land left when you had dealt with the congests, landless persons, persons evicted from 1878, and labourers, all of whom come within paragraph (e). I do not think there can be any question in a case like that, that the people who have first claim on an estate like the Adair Estate, are those who were flung out on the roadside, and for whom subscriptions had to be raised to ship some of them to Australia to make their way the best they could in life. As I have stated some of these people are living still in the neighbourhood, but possess no land. I do not think you would find even the congests in Donegal would press their claim in a case like this before the claims of the representatives of the tenants who were evicted from this estate at the time of which I speak. This is a question that can be dealt with when the estate passes into the hands of the Land Commission, and I want an expression of opinion from the Minister that he will consider the necessity of bringing within the provisions of the Bill an estate like the Adair Estate, and that he will remember that the descendants of those tenants still claim that that land is theirs.

Mr. HOGAN: I am in a position to reassure Deputy Ward that Donegal is one of the counties in which we will take up every perch of untenanted land we

can get. We can do no more; and when we take up that land automatically it will be a question for the State Department to divide large farms as between the congests and the evicted tenants. The Deputy will agree we can do no more than take over all the available land, and I hope I will be able to reassure him on the other points when we come to Section 28. Of course, I would have to hear his proposition, and when I hear it I will consider sympathetically any proposition he is prepared to make in regard to any particular case he knows of.

I do not suspect any *arrière pensée* in regard to Deputy O'Connell's amendment. I am satisfied that the Bill as it stands meets the intention which the Deputy has in mind much more fairly than if the amendment were inserted and if every interest were invited to stake its claim.

Amendment put and declared lost.

LIAM DE ROISTE: I beg to move the following amendment:—To add after the word 'land' in Sub-section (1), line 60, the words 'or such land, however owned or held, as may be required for the reinstatement of a former tenant thereof or his representative under section 28.' "

The last case, as I take it, was made for general purposes. The arguments against it were that it was too general. May I now state the particular case of the evicted tenants, and to my mind Deputy Ward has practically made that case. This amendment is directed to give to the Land Commission power to deal with the evicted tenants question. The purpose, as section 21 declares, is for the relief of congestion and to facilitate the re-sale of tenanted land. My amendment is directed so that the Land Commission would have power to take land for the reinstatement of evicted tenants. I must say that I, in common with many persons here and probably throughout the country, was under the impression that this Bill was intended to deal, as far as possible, with every land problem. I infer from the statement of the Minister for Agriculture that it is principally to deal with congestion and to facilitate land purchase and for other particular purposes that he has in mind, but that it was not intended primarily for dealing with other things

connected with the land problem. Still, even though we were labouring under a misapprehension in that respect, it surely must be admitted by the Minister for Agriculture that it is the interest of every person to try and make this Bill applicable to every case, so that some of the problems that have been agitating farmers and owners of land in this country for some time past, should come under this Bill and should be met, and that as far as humanly possible, when this matter is first dealt with in an Irish Parliament we should get a settlement of these problems now so that they may not come forward again. I infer from what the Minister said that it may be necessary later on when congestion is relieved and land purchase facilitated to bring in an Evicted Tenants Bill, but as we are dealing with the question now it surely is, as I say, the right of everybody who has an interest in the land question to try and make this Bill applicable to all the other problems. The purpose of the amendment I have already stated.

Mr. HOGAN: As the Deputy does not seem to know it already, this Bill deals with other problems besides congestion. It deals with evicted tenants and landless men. It is not a Bill to give everything to everybody, and does not profess to be.

Mr. HENNESSY: I know myself there are numerous claims by evicted tenants. Some of these claims may be perfectly sound and many of them are, perhaps, unsound. I quite see that the Minister for Agriculture has just as much sympathy for the evicted tenants as any of us, and I know thoroughly well that he will deal with them sympathetically. At all events, there are many cases which the Bill does not provide for, and to my mind these require investigation. As Deputy de Roiste points out, this amendment purports to give certain powers to the Land Commission to investigate all these claims, and I think that, to consider the large number of claims that are in course of preparation it will be essential the moment this Bill becomes law to provide the Land Commission with some such machinery to examine the sound and the unsound claims.

Amendment put

The Committee divided: Tâ, 16; Níl, 35.

Tâ.

Seán Ó Duinnín.
Domhnall Ó Mocháin.
Tomás de Nóglá.
Liam de Róiste.
Tomás Mac Eoin.
Seán Ó Ruanaidh.
Liam Ó Briain.
Tomás Ó Conaill.

Aodh Ó Cúlacháin.
Liam Ó Daimhín.
Seán Ó Laidhin.
Cathal Ó Seanáin.
Domhnall Ó Broin.
Domhnall Ó Muirgheasa.
Risteárd Mac Fheorais.
Domhnall Ó Ceallacháin.

Níl.

Liam T. Mac Cosgair.
Gearóid Ó Súilleabháin
Seán Ó Maolruaidh.
Seamus Breathnach.
Pádraig Mag Ualghairg.
Peadar Mac a' Bháird.
Seán Mac Gurruidh.
Risteárd Ó Maolchatha.
Pilib Mac Cosgair.
Domhnall Mac Cátaigh.
Maolmhuire Mac Eochadha.
Earnán Altún.
Gearóid Mac Giobúin.
Liam Thrift.
Liam Mag Aonghusa
Pádraig Ó hÓgáin.
Pádraic Ó Máille.
Seoirse Mac Niocaill.

Piarras Béaslaí.
Fionán Ó Loingsigh.
Seamus Ó Cruadhlaoich.
Cristóir Ó Broin.
Proinsias Bulfin.
Aindriú Ó Láimhín.
Eamon Ó Dúgáin.
Peadar Ó hAodha.
Seamus Ó Murchadha.
Seosamh Mac Giolla Bhrighde.
Liam Mac Sioghaird.
Alasdair Mac Cába.
Tomás Ó Domhnaill.
Earnán de Blaghd.
Uinseann de Faoite.
Seamus de Burea.
Seamus Ó Dólaín.

Amendment declared lost.

Mr. HOGAN: I move to report progress until to-morrow.

Agreed.

DAIL RESUMES.

Progress reported, Committee to sit again to-morrow.

THE ADJOURNMENT.

OCCUPATION OF BUILDINGS BY MILITARY.

Mr. JOHNSON: During the question time to-day a question was put by Deputy Corish respecting the proposed acquisition of an hospital by the military authorities. That question led to a series of supplementaries and answers which suggested to me that an important matter was being raised and an issue which required some consideration. I knew nothing of the matter until I heard the questions, but it appears from the discussion that the military authorities in Wexford county have come to the conclusion that they require to occupy a certain public building, which is an hospital, and they announce their intention to occupy it, and having come to the conclusion that they require the hospital nothing more is to be said. It seems to me that it is important that we should understand what is the view of the Ministry on such a matter. Many things are allowable to the military authorities; many things are excusable, many things

are justifiable in time of military stress or war, but many of these things which are at such a time justifiable are not allowable or justifiable in time of peace. It seemed to me from the discussion that took place by question and answer that this was an occasion when something more than the mere will of the military authorities should have effect. If the military authorities say they require this hospital, and the Local Government Department, or the Local County Homes Committee say that this hospital is required for civic purposes for the use of the county for the sick persons there, then there should be some other course adopted to decide which authority should have possession of this hospital.

I thought it necessary to raise this matter on the adjournment for the purpose of elucidating the mind of the Ministry, and more particularly to find out whether there is any real necessity in this single instance for the military to override the wishes of the County authority. Surely, it cannot be said that it is stress of war that makes it necessary for the Ministry of Defence to take possession of this hospital. It is a military convenience I have no doubt or they would not seek to concentrate their forces in that particular place, but a military convenience is not sufficient, I submit, in time of peace to give authority

to the Ministry of Defence to evict patients from a public hospital. If that authority should not prevail in time of peace in the case of this hospital in question, then we would understand that it would not prevail in any similar case in any other part of the country. I think the way the matter was raised and the answers that were given justify and warrant us raising the matter in this way, and will allow perhaps of a clearer exposition of the position of the Ministry and the desires of the County Board of Health to be stated, better than the cross examination that was taking place during question time.

Mr. CORISH: This is looked upon as a very serious matter in Gorey district and in fact in the whole County Wexford. The matter has been explained to me in this way. "More than three months ago, the Military authorities at Gorey notified the Matron of the Auxiliary Hospital that they were about to take over the Convent quarters attached to the old Union. The Matron immediately wrote me and I went there and saw two officers—Commandants O'Brien and McCrea.

After a long discussion it was finally agreed that if the Military were to take the Convent a new Hospital should be provided for the District, and two vacant residences in the vicinity—St. Wallard's, about half a mile from the town, and a place which belonged to people named Cooney, near the Railway Station—were mentioned as being suitable if converted. The matter rested there for some time. In the meantime the Sisters, moved by a sentimental attachment for their Convent, had sent representations to General Mulcahy, and they were led to understand by him that the Convent would not be interfered with. I never received an official intimation to this effect. On last Monday, the 25th instant, the Matron received written notice that the Convent and District Hospital were to be taken over. She told the Military Authorities to inform me. She attempted to 'phone me herself but could not get through. I learned accidentally of the matter and went to Gorey on Thursday. In the meantime the Matron had again been in consultation with General Mulcahy who had told her that she was not to be disturbed. On my arrival at Gorey there was a further letter from the Military stating definitely that the District Hos-

pital would be taken over on the 28th July. I tried to see somebody in authority but failed. I told the Matron that I had not received any official intimation of the Military intentions and that she was not to take notice of communications addressed to her."

This is a very serious matter and certainly one would think that a matter of this kind ought to be settled in Dublin, that is, that the Minister for Defence should get into touch with the Minister for Local Government before doing anything of this kind. This hospital was conferred upon Gorey because of strong representations made when amalgamation was about to be brought into force in the county. Any of us who were engaged in formulating the scheme received numbers of representations from the Gorey district with a view to having an hospital there. They were given a hospital which I think accommodates 22 patients and it is a very serious matter for the Military to go in and turn out those people on the street. I do not know how many patients are there at the moment but there is certainly accommodation for 22 and I think that the Secretary of the County Board of Health should be acquainted before such a drastic order as that was served on the Matron, especially a Matron who belongs to a religious Order and who cannot move around as an ordinary person can. I am very glad that General Mulcahy took a note of the representations made to him and countermanded the order, but I would ask him to say that such a thing as that would not be allowed to occur again, where officers walk into an institution like that and create what amounted almost to a panic.

General MULCAHY: This is simply flogging a dead horse. The answer I gave to Deputy Corish's question to-day was quite explicit, namely, that in October last the troops occupied a part of the workhouse in Gorey; that four of the nuns at that time occupied portion of it as a hospital; that they were advised at the time that ultimately the whole of the buildings would be required for military purposes but that they were allowed to remain for a time. Without going through the usual and prescribed procedure of drawing the attention of General Headquarters to the changed circumstances in Gorey, the local officer

[General Mulcahy.] recently informed the nuns that they would be required to surrender the portion of the building that they occupied, by a certain date in this month. That was fully stated, and the position between the Ministry of Defence and the Ministry of Local Government in the matter is that the Ministry of Local Government are prepared to agree to the removal of the district hospital from Gorey and the complete handing over of the building there to the Military Authorities. Actual arrangements along these lines have been under discussion with the Ministry of Local Government and the matter is simply brought to this particular head by the premature action of a local officer. The military situation and the housing of the army under proper conditions, conditions that will enable us to put a thorough grip of discipline on the troops, is a matter of very serious necessity at the present moment. There is a concentration of troops. Men are being withdrawn from small posts and brought into larger centres, and Gorey as a Battalion Headquarters is having troops drawn in from outside places and concentrated in it. It is not so much a military convenience as a military necessity, that we should have the building fully under our control at Gorey. It must be perfectly obvious that having nuns in an hospital, portion of which is a military establishment, is an undesirable thing and that it is more a military necessity than a military convenience to put an end to a situation like that. It is not a question of the military having come to the conclusion that they require to occupy certain public buildings. It is the position that the military occupy that public building, that they have bowed to the convenience of others, while they were able to bow to that convenience for a time. It is not in a high-handed manner, or strong military action, that it is proposed now to ask for the surrender of the other portion of the Workhouse at Gorey. The matter is being properly arranged and will be properly arranged, and any representations that the County Committee of Wexford have made to the Minister for Local Government in the matter, I take it the Ministry have already considered, and will be prepared to consider any others. As pointed out, the number of patients in Gorey at present is 4 and, as far as I

understand, the Local Government authorities are considering the removal of these patients to, I think, the Wexford County Home.

Mr. CORISH: Are we to understand, or could I find out from the Minister for Local Government, will the alternative accommodation be provided in the town of Gorey, because, if not, it is contrary to the spirit of the amalgamation in Wexford, for if the patients are to be transferred from Gorey Hospital that is doing away with the auxiliary hospital which was promised to the people of Gorey. This is a very serious matter.

MINISTER for LOCAL GOVERNMENT (Mr. Blythe): Deputy Johnson did not give notice that he would raise this particular question, so that I have not the material by me.

Mr. CORISH: But if the Minister for Defence makes a statement that such a thing is being done, then the Minister for Local Government should know more about it than the Minister for Defence.

Mr. BLYTHE: I can only answer a question when I receive due notice of it.

ACTING CHAIRMAN (Mr. FitzGibbon): I do not think that it does arise on the statement of Deputy Johnson. Deputy Johnson said the point is while one can appreciate the need of the Military Authorities having over-riding powers over any other authority in time of war, that is an authority they should exercise only when military necessity compels them to do so. It does not seem to me that the provision of alternative accommodation arises on this question.

Mr. CORISH: The reason I raised that is, that General Mulcahy made a definite statement that the patients were to be transferred to Wexford County Hospital, and I think the Minister for Local Government should know something about it.

Mr. BLYTHE: As I explained to the Deputy, I cannot possibly keep in my head all these things and if he wants to ask me a question he must give notice.

Mr. CORISH: I am not insisting on an answer. I am only asking do you know anything about it?

ACTING CHAIRMAN: I think if that question of the provision of alternative accommodation is raised it would come better on a future motion for the adjournment. It does not arise out of the statement of the Minister for Defence

to-day as to whether or not alternative accommodation should be provided. I do not say it should not be raised, but it seems to me that it cannot be raised now.

The Dáil adjourned at 8.35 p.m.

DÁIL EIREANN.

DEARDAIN, 5ADH IÚIL, 1923.

(Thursday, 5th July, 1923.)

Cromadh ar obair an lae ar 3.10 p.m. Bhí an Ceann Comhairle Micheál O h-Aodha, sa Chathaoir.

GEISTEANNA—QUESTIONS.

APPOINTMENTS OF AUDITORS AND INSPECTORS.

SEAN O LAIDHIN asked the Minister for Local Government by what method appointments to positions as Auditors and Inspectors in his Department have been made, and if he will state the names and qualifications of Inspectors and Auditors appointed during his tenure of office.

MINISTER FOR LOCAL GOVERNMENT (Mr. E. Blythe): The selection of persons for appointment as Auditors is made from the applications received by the Ministry.

When appointments are about to be made the most suitable persons are selected with due regard to academic qualifications, previous experience and general fitness for the duties to be performed. All appointments made have been of a purely temporary character.

During my term of office seven temporary auditors have been appointed, and one temporary inspector in connection with the combined purchasing scheme.

I do not think that unnecessary discussion as to the personnel of the Civil Service would conduce to the efficient working of the Department, but if the Deputy desires I will give him personally information as to the names and qualifications of those appointed.

A MILITARY PRISONER.

SEAN O LAIDHIN asked the Minister for Defence if he can state how long it is proposed to detain William Bracken, No. E. 686, who was arrested in Castle-town Geoghegan, Westmeath, and is at present interned in Maryborough Prison; whether he has been charged with any

offence, and, if not, whether it is now proposed to bring him to trial.

MINISTER FOR AGRICULTURE (Mr. Hogan for Minister for Defence): William Bracken, who was a Private No. R. 804 in the mounted service of the Army, was sentenced to penal servitude for seven years on the 25th October, 1922, by Courtmartial for mutiny.

Mr. LYONS: Yes; but the man is not sentenced at all yet. He has not been tried at all yet.

PERMITS FOR SHOTGUNS.

SEAN O RUANAIDH asked the Minister for Defence whether he is prepared to have permits immediately granted for cartridges and guns in agricultural districts, in view of the vast amount of damage being done to crops by vermin and game.

Mr. HOGAN: I would refer the Deputy to the reply given by the Minister for Home Affairs to a question in the Dáil on the subject of shot guns on the 8th June.

Mr. ROONEY: Would the Minister say if he can see his way to have these permits granted, as owing to the damage done by vermin farmers are at present much inconvenienced for want of these permits? If this state of affairs continues there will be no crops!

Mr. HOGAN: At the moment I am answering this question for the Minister for Defence, and I cannot say anything further than is conveyed in the answer I have read out.

Mr. WILSON: Would the Minister, as an agriculturalist, admit that this is a very pressing matter, and that it is a matter of much inconvenience to the farmers? Can he see the necessity for having these permits given?

Mr. HOGAN: I am debarred from being an agriculturist at the moment. I could express a number of views at great length, but owing to the unfortunate circumstances that I cannot become an agriculturist at the moment, I cannot go into this matter.

PRESS REPORTS.

Mr. GOREY: There was a matter here yesterday to which I had to draw

attention. It was with regard to some inaccuracies that appeared in the Press reports. I find to-day that these inaccuracies are not corrected. I do not know if it is quite fair to expect or can we reasonably expect, as public representatives, that when inaccuracies like these are pointed out that they should be corrected. To-day I see that where the discussion over arrears of rent is reported in the *Irish Times* it is absolutely inaccurate. Not only is it inaccurate, but it is misleading. I do not say it was done maliciously, but the effect is malicious. Mr. Sears is reported to have said "that the Minister would take off a half-year's purchase money, and that would meet the case to some extent. Mr. Hughes said that suggestion was an admirable one. Mr. Gorey was not pleased to accept the suggestion." Now, what Mr. Sears suggested was that a half-year's rent be taken off the man who owed three years' rent. There was no consideration at all for the men who owed less. Under these conditions I refused to accept it. That is a different thing altogether from what appeared in the report. I do not think we are expecting too much, when inaccuracies are pointed out, that the inaccuracies should be corrected. Some attempt at accuracy, at all events, ought to be made in the reporting.

Mr. CORISH: I gave the Minister for Local Government a private notice of a question.

AN CEANN COMHAIRLE: I did not get that question.

Mr. BLYTHE: I am not in a position to answer that question. The Inspector is on the spot.

AN CEANN COMHAIRLE: The Minister cannot answer now. When a question is given on private notice a copy of it ought be given to me.

Mr. GOREY: I rose for your instructions in this matter.

AN CEANN COMHAIRLE: There may be difficulty in actually reporting a debate very accurately. There are difficulties in following the Committee Stage of a Bill like the Land Bill, which is very technical, and there are difficulties in exactly appreciating what a particular suggestion, when not put in writing, means. I will see if we can get the

matter rectified now. Of course, it is in the Press report, not in our Official Report that the inaccuracy complained of occurred?

Mr. GOREY: Yes, it is the Press report I am referring to.

THE DAIL IN COMMITTEE. LAND BILL, 1923—THIRD STAGE RESUMED.

Mr. JOHNSON: I beg to move: "In Section 21, in Sub-section (2), to delete paragraph (b)." The paragraph reads:—

"Any land which is not substantially agricultural or pastoral or partly agricultural and partly pastoral in character, or any land comprised in a holding the main object of the letting of which was for a residence."

The object of the amendment is to find out from the Minister what his intention is with regard to land which may be within the region of a town, for instance, which may be held to be building land, but which as a matter of fact is agricultural land. If such lands were acquired under the Bill, the Land Commission would be in a position either to re-sell it to the tenants—and this quite conceivably should be brought in under a special Bill—or they might retain it, and so secure for the State the unearned increment which otherwise might be appropriated by the owner. That is the good reason, I think, for urging that lands which may be said to be not strictly agricultural in the sense that is defined, but which, being held out of use, should be taken with a view, if it is brought into building purposes, that such increased value as the development of the town would give to that land should accrue rather to the Land Commission, that is the State, than to the present owner. The amendment is moved with a view to finding from the Minister whether such an amendment to the Bill is not within the plan that he has set out.

Mr. HOGAN: I think I can reassure Deputy Johnson on probably most matters which he has in mind in connection with this amendment. The fact that land is near a town or adjoins a town does not necessarily make it non-agricultural. Any tenancy, no matter how near a town, vests. It vests in the Land Commission, and afterwards in the tenant.

[Mr. Hogan.]

The fact that a tenant is living in the town and is a trader or tradesman of any kind, or any man who has land on a future tenancy outside a town, does not make a difference. A future tenancy vests. That covers all the cases that the Deputy might be interested in, where people living in towns have agricultural lands outside the town they vest in the Land Commission and afterwards in the tenants. These are probably the bulk of the cases the Deputy has in mind. Of course, it is quite clear we should not buy non-agricultural land. That expression covers the town itself. We could not, for example, buy the market square or any sort of non-agricultural or non-pastural land. He raises another question of land which perhaps has potential value as building land, and he suggests that land should be acquired by the Land Commission because it has such a value. We need not agree to that for the moment. Anybody might hold 50 acres of land which he is farming as an ordinary farmer near the town. He is farming that as a good farmer should, but part of it may be valuable by reason of the fact that the town is extending in that direction. He owns the land. He paid for it the full price. He may have bought it as a fee simple, but the mere fact that the town or city is extending should not give the Land Commission the right to buy it out and take all the profits he might have gained by his good luck in having land there. Such an amendment as that would be injuring not only the large landowners, but the small landowners, both tenants and proprietors living near the town. There may be conceptions of the ownership of land which would contemplate that, no matter how a man owns land or no matter how he farms it, that he should not get any benefit that would accrue by reason of the fact that it happens to be in a position where a certain potential and additional value accrues to it by reason of the fact that the town is extending in that direction. We can argue that question for a long time, but we would never agree on it. This is hardly the time to argue such a question on a Bill like this, but in any case the possible effect is that you will have a small farmer having 50 acres or a landowner living near the town farming his land properly, and if it is his good luck that the land should become valuable by reason of the fact

that the town is extending I do not see why the State should step in and take that land, no more than why the State should step in and take a house built in a particular part of the city towards which business is spreading and which is becoming more valuable.

Mr. JOHNSON: The Minister has made it clear that he does not support the view that the additional values of land created by the work of the community should become the property of that community. He throws over all the views of the older generation of land reformers, and says that the chance ownership of a piece of land near a town gives the owner all the advantages, no matter who may create the new values. Values that are to be created may be created through circumstances over which the holder has no control, but all that increased value is accruing to the agricultural holder. The position of land which is agricultural in practice, and perhaps might have been agricultural for a generation or two, near a small town or a large town would be affected by this amendment. If the Agricultural Commission thought that such land might some day possess a value as a building site, then it could not be brought in. I think that is the defect. I think the opportunity should be availed of in this Bill for the Land Commission to acquire such agricultural land, such land as is at present agricultural but may not be wholly agricultural. I would like to know whether grazings outside Dublin City, for instance, are ruled out by the provisions of the Bill as it stands. Take accommodation land, as they call it. Where near the smaller towns there are patches let out in plots for townsmen who are what one might call only conveniently more or less temporarily permanent or permanently temporal agricultural. They are temporary holdings for tillage purposes, and are going on from year to year. Apparently these are to be ruled out, and I think that is the defect. I think lands of this kind which are being held by the owners as agricultural land—so far as the owner is concerned it is only agricultural land, and it is only by the action of other people that it may at some future time become building land—should be brought within the confines of the Bill. I am sorry the Minister is not able to accept the amendment.

Mr. HOGAN: I venture to say the Deputy would be very much surprised if I agreed to it. He talks of chance owners. A man may have bought land and may have paid for it, and generally does, a very considerable sum by reason of the fact that it is near the town. He may have bought the chances, and bought them dear. We have got to take that into account. Further, if we do take up the land, what are we to do with it? If the land has a potential value as building ground, are we to take it up for building purposes? Surely it is not suggested that we ought to do that sort of thing under a Land Purchase Act. It is an interesting question as to whether the additional value of land by reason of circumstances over which the owner of the land has no control or responsibility should not be acquired for the State, and that question could be argued very nicely and properly on a Bill which provided for the taking up of land in the neighbourhood of towns for housing; but surely not under this Bill. If we took up such land we would have to build on it, and it could not be done. With regard to grazing outside towns, if there is a tenancy it vests in the tenant; if there is a sub-tenancy it vests in the sub-tenant.

We have ample power to make advances to trustees for the purpose of holding land near towns for forestry, tillage, plots, pasturage, and other purposes of that sort. We have ample powers under this Bill to do what the Deputy wants us to do, but we have not the power to take a letting for temporary convenience, and to make the man who would take that letting the tenant for the moment regardless of circumstances. We argued that question yesterday on another section. Deputy O'Connell wished to strike out Sub-section (3) of Section 20. I went into the reasons why we could not undertake anything in that respect. It would create far more hardship than do good.

Mr. HUGHES: If I understand correctly the effect of this amendment of Deputy Johnson's, he wishes to confiscate any property people may have convenient to towns and cities. I do not know if the Deputy understands what the amendment would mean in effect. I happen to know a little about the tenure of land around towns, and I do know that people who are, perhaps, unfortunate enough to hold land around towns have

to pay very dearly for it. They have to pay an increased rent, and, if they were fortunate enough to get the Land Commission to fix a rent, there was always a proximity value which they had to pay, whether they liked it or not. If those people had the same facilities as people holding land 10 or 20 miles away from a town, there might be something in the Deputy's argument. As matters stand, it would be preposterous to have an amendment of that sort inserted in the Bill. I really think the Deputy has a misconception of what is meant by the amendment, and if he thinks it over properly he will not, I believe, insist on pressing it.

Mr. COLOHAN: On a point of explanation, I would like to ask the Minister if he would be prepared to take that part of the Curragh called the Little Curragh, situate north of the Great Southern and Western Railway line, and apportion it amongst the landless men in the towns of Newbridge and Kildare. There are about 200 or 300 acres there, and beyond serving as a gallop for racehorses and as a means of recreation for golfers, I do not see what use it is. It would meet a long-felt want if the land were divided amongst the landless men of Newbridge and Kildare.

Mr. HOGAN: The Deputy is really asking me what is the scope of the Bill. The answer is Sections 20 to 26, Sections 28, 29, and 32, all of which we have in front of us. If he refers to those sections his question is answered.

Amendment put and negatived.

Professor THRIFT: I beg to move the following amendment standing in the name of Deputy FitzGibbon:—

In Sub-section (2) (b), line 12, to insert after the word "not" the words "at the date of the passing of this Act."

I have not had an opportunity of speaking about this to the Deputy, but the amendment seems to me to be very reasonable, and one which just has the effect of making clear what is, I think, intended by the Bill. I am glad to say I am not a lawyer, but I think it might be contended that if some explanatory words were not added to the Bill, the term "is" would refer to the time when any particular case comes under discussion. What I think is meant is land at the time of the passing of the Act.

Professor MAGENNIS: I desire to support the amendment. Notwithstanding the pharisaical declaration of my friend, Deputy Thrift, thanking his God he is not a lawyer, it would have been some advantage to him, I think, in the present instance. The purpose of this amendment is to do justice to a particular class of land occupier who has been particularly badly hit by previous Acts. Unless this stipulation is put in, it is possible that leaseholders, lessees, in whose instrument granting the lease there are words constituting them tenants of mills, for example, and of similar holdings, would be shut out as they have been since the Acts of 1881, and shut out especially from the benefit of land purchase. Many of these holdings have completely changed; they have undergone a transformation through the alteration in the economic life of the country. The possession of a mill, for instance, upon one's land in most places outside of the immediate proximity of a city, and sometimes not even then, is the possession of a white elephant, or worse. A great deal of land which is declared in the lease to be not of an agricultural character, so as to bring it under the application of the Land Acts, has in the interval of years become of that type. Now, unless this stipulation is included in Sub-section (b) —“any land which is not at the time of the passing of this Act”—the benefit of the present land purchase would not be secured for that type of holder, because this section is a section vesting land in the Land Commission on an appointed day. The sub-section excludes from the application of that, land of this particular type. Consequently, if there be lessees working the land irrespective of what may be in their original instrument as agricultural holdings, then these holdings vest in the Land Commission from the appointed day, and those people then receive the benefits of the Act. The ground which Deputy Fitzgibbon's amendment covers is to a large extent that covered by a subsequent amendment by Deputy Gorey—“Provided also that, notwithstanding the description contained in any lease or other document, lands which have been used in a manner substantially agricultural or pastoral during the six years preceding the passing of this Act shall be deemed agricultural or pastoral land.” By the introduction of Deputy Fitzgibbon's amendment it is not

a question of deeming them at all. They are, by virtue of being substantially used as agricultural or pastoral holdings, to come under the vesting power of the Land Commission under this section. That is the great benefit which is secured.

Mr. HOGAN: I am accepting the amendment. The words are absolutely necessary. It is necessary to show that whether the lands are agricultural or pastoral, or whether they are not, is to be decided by reference to the present condition of the land. That is absolutely essential.

Amendment put and agreed to.

Mr. GOREY: I beg to move the following amendment:

In Sub-section (2) (b), line 15, to add after the word “residence” the words “provided, however, that where the Poor Law valuation of the land exceeds half the Poor Law valuation of the buildings, it shall be deemed that the main object of the letting was not for a residence: Provided also that notwithstanding the description contained in any lease or other document, lands which have been used in a manner substantially agricultural or pastoral during the six years preceding the passing of this Act shall be deemed agricultural or pastoral land.”

I do not know what the effect of the previous amendment will be on this, but this amendment was introduced to try and make more definite—to bring down to some definite level—what is meant by residential holding. This question of residential holdings will be a very contentious one—extremely contentious with regard to the working of this Act. Where there is a distinct understanding between the lessee and the lessor that the holding was a residential holding at the time of the letting, I and everybody else can understand that being distinctly a residential holding. Where there is no such understanding, that is where the object of the amendment comes in. I, and the people with me, think that where the Poor Law valuation of the land exceeds half the Poor Law valuation of the buildings and is farmed agriculturally, it ought to be considered an agricultural holding and should come under the terms of the Bill.

Mr. HOGAN: There are two parts to this amendment. The first tends to de-

fine the term "residential holding." Of course, I could not accept that definition.

Mr. GOREY: The first definition?

Mr. HOGAN: Yes, the first definition. Whether a holding is residential or not is purely a matter of fact; the Judge must find on the facts and on the evidence, and it would be fatal to the Bill to lay down a rigid line like that. It would probably do a grievous injustice. It would mean probably that where people had built fairly substantial houses, and had spent £5,000 or £6,000 on the building, and had then let to a tenant pending the time the son or the daughter, if she got married, would go into it, the yearly tenant would come in now and purchase, possibly at a price under the Act which would be far less than what the house was built for. That is quite possible under this amendment. I put it no farther than that. You cannot define those things in an Act of Parliament. Whether a holding is residential or not, or is let for the purpose of a residence or not, is a question of fact. Quite a good many considerations are bearing on it, and leave it open to the Land Commission, with an appeal to the Judicial Commissioner, to try the case and to do justice. If you do injustice under this Clause you do grave injustice. You put a man to perhaps five, six or ten thousand pounds expense, and you cannot afford to do any averaging on questions like that. The issues are too important for the individual, and it must be left to the Land Commission, and the Land Commission must be free to take all the relevant circumstances into consideration. With regard to the second part, the amendment I have just accepted covers it. "Any land which is not, at the date of the passing of this Act, substantially agricultural or pastoral does not vest." That is to say any land which, at the date of the passing of the Act, is substantially pastoral or agricultural vests. It vests in the Land Commission, and it is for the Land Commission to say whether they are going to regard the particular lessee as a tenant or merely a temporary tenant, and hence not entitled to purchase, or whether, even though they regard him as a tenant, they are not going to take away his tenancy and use the land for the relief of congestion, or, finally, whether they are

not going to sell it back to the owner as essentially a case where there should be a re-sale to the owner. You must leave all these things to the Land Commission. It does not matter what is in a lease. It does not matter how long the lease is, or how short the lease is. The land vests in the Land Commission in the first instance, and when it does vest in the Land Commission then the Land Commission are entitled to advert to the lease to see what they are going to do with the land. If the Deputy's purpose is to ensure that the land shall vest in the Land Commission, then Deputy FitzGibbon's amendment makes it unnecessary. I am perfectly sure that the Deputy does not wish to interfere with cases in which the land was let on behalf of minors. Take the old case, where a letting is made for five or six years during minority—

Mr. GOREY: No; I did not mean to deal with that class of case.

Mr. HOGAN: If the Deputy's amendment were accepted containing the words "provided also that notwithstanding the description contained in any lease or document," it would be at least doubtful if the Land Commission would not be coerced to ignore any circumstances set out in the lease, and to vest it in this temporary tenant. I think the Deputy will find that the words which have been added do all he wants.

Mr. McGOLDRICK: Will the Minister give us an undertaking that the Land Commission, in deciding upon matters like this, will not be guided by the same conditions that guided them in these affairs in the past? We have had numerous instances of holdings which were ruled out as non-agricultural on account of the house being the principal part of the holding, and I do not know on what basis this was done. However, I know a great many cases of serious grievance where the holding was so ruled out. If, under the present Bill, the decision as to the nature of the land was to be arrived at in the same way serious injustice might be done. I hope that in whatever arrangement is made to decide these things the Land Commission will not be hampered by the conditions which prevented them doing justice in the past owing to some technical provisions contained in previous Land Acts.

LIAM de ROISTE: I would like to ask the Minister for Agriculture if he has taken into consideration the question of a mill holding with reference to this sub-section?

Mr. HOGAN: Let us take a specific case—a house, large or small, and twenty or thirty acres of land around it. Deputy McGoldrick wants to know on what principles the Land Commission will decide the question whether this is an agricultural or pastoral holding. I think that is his point. What we do here is decide that they will have regard to the state of the holding at the date of the passing of the Act. That is the first decision. If a holding was used twenty or thirty years ago for a different purpose, and was gradually allowed to drift into becoming an agricultural or pastoral holding, the Land Commission would not take cognisance of what the holding was ten or fifteen years ago—they might have to take two or three years into consideration—but would consider what the holding is now. Take the case, then, of the holding used twenty or thirty or forty years ago in connection with the working of a mill. At that time a mill was a valuable asset. Probably 75 per cent. of the income of the farm was the result of the working of the mill, and for that reason it was not substantially an agricultural holding. Since then mills have fallen into disuse. Probably it was decided in most of those cases—perhaps when the tenant was going into Court, or perhaps in a dispute over a marriage settlement—that ten or twenty years ago this was not an agricultural holding, and under the previous Acts that decision ruled the case. The Land Commission could not go behind it, although at the moment the holding is purely agricultural, because all the profits are derived from agricultural operations and not from the mill. Nevertheless, if the case went into Court heretofore, and the Judge was called upon to decide whether it was an agricultural holding or not, someone would get up and quote a previous decision on a mill holding, and that ended it. We altered that. We say that it is the condition of the holding at the passing of the Act which will decide the question. That is made as plain as the English language can make it in the Bill.

LAIM de ROISTE: The case I have

in mind happens to be quite contrary to that which the Minister deals with. It is only a small parcel of land. Originally it was let as agricultural land, but the tenants of it used part of their residence as a mill and they developed a mill holding. I do not know how the Act will affect such a case. It is quite contrary to the case that the Minister has dealt with.

Mr. HOGAN: I wonder does the Dáil agree that, in deciding a case whether a holding is agricultural or pastoral, the decision should be taken with regard to the present condition of the holding?

DEPUTIES: Yes.

Mr. HOGAN: That is agreed. I assure Deputies that I could not put myself into the position of a Judge, with a Bar before him stating the pros and cons, and all the circumstances of a particular case, and decide whether such a case comes within the definition. I am asked by the Deputy as to whether some particular case which he has in his own mind, and which I have not got all the facts of, comes within the definition which we are all agreed is the right definition. I cannot do that.

Mr. GOREY: With regard to the first part of this amendment, I do agree that it might raise a barrier if accepted and passed in its present form. But with regard to the second part of the amendment dealing with documents, I have seen some of them, and they are very peculiar. Some of them have clauses excluding the holding from any benefit under any Act. I have one of the documents here. This amendment was not meant to interfere with the rights of children or anything like that. I am satisfied that the previous amendment meets to a considerable extent the requirements of mine, and for that reason I beg leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Mr. O'CONNELL: I move Amendment 37:—

In Sub-section (2), paragraph (c), line 16, to insert after the word "is" the words "and has been for a period of not less than ten years before the passing of this Act."

It has been the custom to exclude from

the operations of the Land Acts in the past demesne lands and home farms, parks and gardens, and so forth. It is just possible—I believe there have been cases of it—that landlords with an intelligent anticipation of things to come will extend the area of their demesne or home farms in order to get the advantages of certain provisions in this Act. The object of the amendment is to provide that only demesne lands which have been so classified during the past ten years will come under the section.

Professor THRIFT: It does not seem to me that this is a very reasonable amendment. It is rather against what we have already agreed to in connection with the previous sub-section. I would like to suggest to the Minister whether it really would not be necessary after the word "is" in this section to insert the words "at the date of the passing of this Act." That seems to be required in the same way that it was required in a previous sub-section. I do not think that Deputy O'Connell's amendment is reasonable. I do not like to make legislation retrospective. The Minister has already, during the debate on this Bill, drawn attention to the fact that when a definite figure is suggested a definite reason should be adduced for the selection of that figure. Ten is the figure suggested here. Ten is an arbitrary figure. It might as well be eleven or eight or nine. I do not like arbitrary figures of that kind, and I do not think the Minister does either. I hope that, instead of accepting this amendment the Minister will consider the advisability of adding the words that we added to the previous sub-section.

Mr. HOGAN: The clause, if amended, would read: "Any parcel of untenanted land which is and has been for a period of not less than ten years before the passing of this Act a demesne, home farm, park, garden, or pleasure ground, or any holding usually occupied by a person regularly employed on such demesne, home farm, park, garden, or pleasure ground." Applying this term of ten years to all these classes of land would give rise to a tremendous amount of litigation. I do not believe myself that it would make the slightest difference in regard to demesne land. It would probably affect home farms, gardens, plea-

sure grounds, and holdings usually occupied by a person regularly employed on such lands. It would probably make sufficient difference in these cases to create a lot of litigation. The Court would have to decide whether in fact certain lands had been parks or gardens or pleasure grounds, or holdings usually occupied by a person regularly employed in connection with these places for the past ten years. While it would do a certain amount of justice in some cases, it would do grave injustice in others. A home farm is a farm used in connection with the owner's house. It is a sort of glorified kitchen garden. The definition of home farm fills about twenty pages of *Cherry*. I do not propose to read it out. There is hardly any other expression there has been so much litigation about. There are hundreds of cases on the question. I shudder to think what would happen if we complicated the issue, so that the Judges would have to decide, not what they have always found tremendous difficulty in deciding—whether such a farm is a home farm at the moment—but whether such a farm has been a home farm for the past ten years. As I have said, there are at least twenty pages of cases in *Cherry* on the specific question, "Is such a farm a home farm at the moment." If Judges had to decide not alone whether this is a home farm at present, but whether it had been a home farm for the last ten years, it would certainly be a good job for the lawyers, but I do not think it would be to the advantage of anybody else. The same applies, I should say, to pleasure ground, and probably to a lesser extent to other things. I do not think it would make the slightest difference in practice. In the case of the demesne particularly, it would help to do the right thing in certain cases; it would do grave injustice in others. I can conceive a case where, let us say, a business man or a shopkeeper in a local town buys a house outside the town with ten acres of land, probably a division of 150 acres that was tenanted land five years ago, and he works it now as a home farm. It is a farm appertaining to and worked for the convenience of his residence, and not purely for profit. There may be no doubt about that case; it may be quite certain that seven or eight years ago it was not a home farm; now it is. It would be to that class of case this ex-

[Mr. Hogan.]

pression "home farm" relates. The man with a big demesne generally has not a home farm. His demesne is big enough. The demesne can be used, and is generally used, for purposes connected with his residence. He has his tillage inside it, he has his cows, and so on. A man with anything like a substantial demesne generally has not a home farm within the definition of the expression. "Home farm" is strictly a legal term. "Home farm" is a farm used by the landlord for the convenience of his residence and not worked purely for profit. As I pointed out, there has been a tremendous amount of litigation in connection with the question. As a rule, it is not the big landowner who has a home farm. He has untenanted land outside the demesne, but that is not a home farm. It is generally the case of a small shopkeeper or retired business man—a man who, say, retires after forty years, buys a farm, and is now an ordinary farmer. It is not right to take up his land compulsorily, because it may have been untenanted land five years ago. I think Deputies will agree that there would be a great many cases where hardship would be done by this ten years' clause. You have the proviso whereby wrongs would be righted: "Notwithstanding anything contained in the foregoing subsections, where the Land Commission before the appointed day declare in the prescribed manner that any land wherever situated, hereinbefore excluded from the operation of this section (other than land which comes within the description in Clause (e) of Sub-section (2) of this section), is required for the purpose of relieving congestion, then such land shall vest in the Land Commission pursuant to this section."

Mr. JOHNSON: The intention of this amendment is more particularly to apply to demesnes. I was hoping that when the Minister was giving us the benefit of his experience in this matter he would have defined demesne, because, as far as I have been able to enquire, I have not been able to find any definition of the name. I also had the hope that Deputy McBride would have been able to come to our assistance in this case, which has been put forward in view of special representations that were made, and which were thought might be typical of other

cases where outside Westport the Marquis of Sligo is alleged to have retained within recent years thousands of acres which are included now in what is known as his demesne. That is the case which is put forward. It may be a single exception. It may be typical of many cases. If it is, then it surely is unfair. Surely it is time to avoid by anticipation the effects of the Act. I do not think that the proviso (paragraph 3) would meet the case, because that only provides for the exception where the land may be required for the purposes of relieving congestion. I do not know whether the grievances expressed by the people in Westport district would be met by this proviso clause. Probably the Minister is familiar with the complaints that have been made. He may be able to say it is the only case in the country, and that he can find a way of meeting the Westport example. Perhaps the Minister would help us.

Mr. HOGAN: I have no hesitation in stating that not only have the Land Commission power to take that part of that demesne, but I know that they will require it for the relief of congestion. The Congested Districts Board have been for decades looking for that particular land.

Professor MAGENNIS: Perhaps Deputy O'Connell is remembering the "Deserted Village":

" . . . The man of wealth and pride,
Takes up a space that many poor supplied;
Space for his lake, his park's extended bounds,
Space for his horses, equipage and hounds."

If we could redress the wrongs of past centuries by any legislation effected to-day it would be highly desirable. On the other hand, we may ourselves, as the Minister pointed out, by our haste to do good, create new wrongs. Suppose a case of a man who has bought and paid for land the price which the vendor demanded, and has bought it to secure greater privacy for his own house, or for some other purpose of convenience. Would it be fair now, merely because within the last ten years this transaction took place, and what is now a pleasure ground or something of that nature was before under tillage, that it should be wrested away again from the legiti-

mate purchaser? It is quite easy to put in this spirit of reform and humanity clauses which are directed to secure the humanitarian result, but when these come into another atmosphere less permeated by sentiment and spirituality, the prosaic, dingy Law court, Judges and lawyers, unfortunately, refuse to consider what was the intention of the Legislature. They say, "What are the words of the Act?" and they interpret these with the utmost rigidity. So, while I am absolutely with Deputy O'Connell in this matter, with particular reference to demesnes and pleasure grounds, I realise that the words of limitation which he puts in would not meet the case, even if ten years were made fifty years or one hundred years. It would not have the all-impressing character which would be necessary to effect his purpose. So it seems to me, since we cannot do everything which is desirable, since the unfortunate logic of life presses upon us, the fact that not every reform that ought to be made is feasible or capable of being made, and certainly not every reform of past wrongs, can be effected merely through the operation of one sub-clause in a Land Purchase Act, we had better not run the risk of doing evil in the spirit of good.

Mr. O'CONNELL: This amendment was intended chiefly to deal with demesne lands, and possibly was coloured to a large extent by what took place in this particular instance referred to by Deputy Johnson, but, in view of the very satisfactory statement that has been made by the Minister with regard to that particular estate, I do not intend to press the amendment. I beg leave to withdraw it.

Amendment, by leave, withdrawn.

Professor THRIFT: Would the Minister consider the desirability of inserting after the word "is" the words "at the date of the passing of this Act"?

Mr. HOGAN: I think the best thing we can do is just to leave it as it now stands. Let well enough alone.

Amendment 38, by leave, withdrawn.

Mr. JOHNSON: The arguments that were adduced in favour of Amendment 34 need no be repeated, and I simply move Amendment 39: "To delete paragraph (d) in Sub-section (2)."

Mr. HOGAN: As the Deputy stated, we argued this question already.

Amendment put and declared lost.

Amendment 40: "In Sub-section (2) (e), line 27, to insert after the word "authority" the words "otherwise than as tenants thereof."

PADRAIC O MAILLE: A Chinn Chomhairle, is maith liom an leas-rún so do chur os bhúr geomhair agus is doigh liom go bhfuil sé an-tabhtach.

I wish to propose this amendment. I think it is a very necessary amendment, as far as many public authorities through the country are concerned. There are a large number of public bodies that hold plots or land around public buildings. If they do not hold those plots of land in fee-simple, if this amendment is not carried, they cannot purchase under the Act. I do not think there is any Deputy in the Dáil who would be opposed to this amendment. It would empower Boards of Guardians and hospitals to purchase under the Act. No further argument is necessary as to why this amendment should be adopted. I, therefore, ask the Dáil to pass it.

Mr. HOGAN: I accept that amendment.

Amendment put and agreed to.

LIAM de ROISTE: I move:—"To add at the end of Sub-section (2) (e), line 30, page 8, the following:—"Provided that such exception shall not apply to land of which the former tenant or his representative applies for reinstatement, and such application is approved by the Land Commission after investigation in the prescribed manner."

AN CEANN COMHAIRLE: In this amendment does Deputy de Roiste include Sub-section (2), or merely Sub-section (2), paragraph (e)?

LIAM de ROISTE: The whole Sub-section.

AN CEANN COMHAIRLE: Then it should read: "Provided that this Sub-section shall not apply," etc.

LIAM de ROISTE: Yes. This is another effort to try to get the Land Commission Court to deal with the cases of evicted tenants generally. As far as I read, the general purpose of the Bill is

[Liam de Roiste.]

that the Land Commission is given power to deal with land for the purpose of the relief of congestion, which everybody believes is a most desirable purpose within the congested districts to deal with the cases of evicted tenants. The purpose of this is to enable the Land Commission to deal with evicted tenants in other cases as well. As I said, I make no appeal whatever to sentiment, because it is a case of justice where there are good claims that persons be reinstated in their former holdings, and therefore it seems to me there is no reason why the Land Commission should not have powers to investigate such cases, and if the cases are just, reasonable and fair ones, the Land Commission should have power to reinstate the evicted persons upon their holdings. That is the purpose of this and of the amendment I previously proposed. There was an argument put forward that it was giving too much power to the Land Commission to investigate those cases or to disturb persons now on the land. But that argument would equally apply to the other purposes for which the Bill is intended—for the relief of congestion. We are giving power to the Land Commission to disturb people for certain purposes. I maintain there is no reason why we should not give power to them to give justice to people who made possible the previous Land Acts and made possible the placing on the soil within certain limits of congests and other classes, such as landless men.

Mr. HOGAN: The Deputy should not jump to the conclusion that evicted tenants are all to be reinstated. A great many of them—the greater percentage of them—have been reinstated, and there will be ample power within the four corners of this Bill to reinstate without taking over land which is not substantially agricultural. The amendment asks us to take up land which is not substantially agricultural or pastoral land, such as land in the City of Dublin and land in the towns through the country. Paragraph (c) mentions any parcel of untenanted land which forms a demesne, home farm, park, garden, or pleasure ground. Since 1881 there has not been one holding cleared for the purpose of being made into a demesne, nor one present tenancy. We are to take up land for the relief of

such evicted tenants to whom the Land Commission may advance money. But it is quite possible that if an evicted tenant was never evicted, and if he was using his holding at the present moment, that we would be taking that holding from him for the relief of congestion and migrating him elsewhere. Therefore we cannot admit the principle that because he is an evicted tenant we must put him back. That is common-sense.

LIAM de ROISTE: The comment upon that is that it may be common-sense, but it means taking advantage of this Bill and displacing a man who is entitled to land in order to put somebody else in his place. With regard to the comment that the amendment deals with A, B, C, D, and so on, Sub-section 3 gives power to the Land Commission to deal with any land, notwithstanding anything done in the foregoing sub-sections. It does give potential power to the Land Commission to deal with any land for a purpose such as the relief of congestion. Therefore I maintain that the Land Commission should be given the same power for the reinstatement of the evicted tenants.

Amendment put and declared lost.

LIAM de ROISTE: I called for a division.

AN CEANN COMHAIRLE: I did not hear that. We had this question arising before. If a Deputy cannot make himself sufficiently clear when calling for a division, and the motion is declared lost or carried, the matter cannot be reopened.

LIAM de ROISTE: Excuse me, I did not hear yourself.

CATHAL O'SHANNON: Deputy de Roiste did call for a division. I heard him.

AN CEANN COMHAIRLE: I am not disputing that; but I did not hear him.

LIAM de ROISTE: I did not hear half of what you said.

AN CEANN COMHAIRLE: There is a method of remedying that, perhaps.

Amendment 42: In Sub-Section (3), line 37, to insert after the word "congestion" the words "or for the development of agriculture, or otherwise in the public interest."

AN CEANN COMHAIRLE: Amendment 42 would have the same effect as Amendment 33, which has been negatived. It is not moved therefore.

Amendment not moved.

Mr. GOREY: I beg to move:—

“To add after Sub-section (4) a new Sub-section as follows:—‘For the purposes of this Section, the County of Cavan shall be deemed to be a Congested Districts County.’”

I move this amendment on behalf of a county which has one of the smallest average tenancy valuations in any county in Ireland. I think the average valuation is about £8. There is a big agricultural population, and I do not see any reason why it should not be put on the same footing as Donegal, Galway, and the other counties. It has been sent down here to me from Cavan to propose it. I am sure Deputy Milroy, who is just rising, will support this amendment.

Mr. MILROY: Deputy Gorey always reminds me of a blend of Ancient Pistol and Don Quixote. He makes a terrific noise which means nothing. He is tilting, like Don Quixote, at windmills. This is one of his windmills. It is quite clear that the Deputy knows very little about this matter. Otherwise we would have been treated to a much longer and much more frantic discourse. I want to know exactly what this means.

Mr. GOREY: It means what it says.

Mr. DARRELL FIGGIS: A very remarkable thing that.

Mr. MILROY: I do not think so; there is more in this than meets the eye.

Mr. GOREY: Let us have it.

Mr. MILROY: The Deputy in his amendment asks that Cavan should be scheduled as a Congested Districts County. I want to know for what purpose. Is it considered by him that this is a speedier way to relieve congestion in Cavan? There is no question whatever about the fact of the serious aspect which congestion presents in this agricultural problem, probably vital and more important than even the price or annuity. This amendment, if carried, would not add to the powers that you

are to bring into being one scrap more power of relieving congestion than the Bill already gives.

Mr. GOREY: Why object to it, then?

Mr. MILROY: Why object to it? The people of Cavan are very sensible people. They have shown that by electing me. The people of Cavan know what they want, and know what they do not want. One of the things they do not want is to be made the raw material of one of Deputy Gorey's electioneering stunts. That is what is behind it. I happen to be one of the representatives of Cavan. I got a copy from the Secretary of the Farmers' Union to-day of this amendment, but not a single scrap of information as to the grounds on which it was passed. I got this amendment the day it was to be moved. What was the idea of that? If the people in Cavan wished that this matter should be brought before the Dáil, their representative was the proper person to do so. I was never consulted on the matter, and neither was I acquainted with it. Simply I was furnished with a bare amendment to-day and told to toe the line and follow Deputy Gorey. I am not going to follow Deputy Gorey, and I am not going to allow the County Cavan to be made an electioneering platform for Deputy Gorey in this Dáil. I have a few more pearls to throw before Deputy Gorey. The Bill gives every scrap of power necessary to deal with congestion in Cavan and elsewhere. As Deputy Gorey is so keen for the relief of congestion, would he be willing to part with a few of his own large acres to relieve this congestion?

Mr. GOREY: I have enough of my own congests.

Mr. MILROY: I have based my reasons as to how to deal with congestion, and before I sit down I want to ask the Minister if my interpretation is a correct one, for, after all, he is the man responsible for the interpretation of this Bill, and I want to ask him to give me guarantees that what I have said is correct, that there is within this Bill, as already drafted, the power to deal fully and successfully with the congestion in Cavan. After all, the main thing is not the question of scheduling districts as congested areas, but rather the question of

[Mr. Milroy.] solving congestion. The problem of congestion, too, is not going to be affected by indulging in political stunts here or elsewhere.

Mr. GOREY: I heard great applause with respect to the reference to political stunts. Coming from Deputy Milroy, that certainly is very refreshing. This amendment was sent down to me from Cavan, and has been put up by me, and to my great astonishment I heard to-day publicly, and yesterday privately, that this was an election stunt. If this amendment is wrong, it has not been pointed out what is wrong about it, and why it is a political stunt.

Mr. MILROY: It is superfluous.

Mr. GOREY: What is the objection to it, then?

Mr. MILROY: The amendment is unnecessary.

Mr. GOREY: Because it is unnecessary it is a political stunt. I thought that the Deputy stood up here to give us some explanation of the amendment. He has not done that. He stood up to tell us what the amendment was, and sat down without doing so. The only thing he has made clear is that it is an electioneering stunt. I do not see what bearing it has on an election. I would be very happy to hear it, but so far I have not heard the explanation. Would the Deputy please tell us what it means?

Mr. MILROY: I shall. This amendment was put forward in the expectation that I would vote against it, and therefore become unpopular with my constituents in Cavan. I am going to vote against it, and face that unpopularity.

Mr. WILSON: The question really at issue is, does congestion exist in Cavan, and would the constituents of Deputy Milroy be benefitted by having Cavan scheduled as a congested area? It is not a question of whether it is an election stunt or not, or whether he is to represent Cavan. The real question at issue is whether the constituents of Deputy Milroy in Cavan would be benefitted by the amendment.

Mr. HOGAN: That is the real question, and the answer is they would not. As every Deputy in the Dáil knows, adding Cavan to the congested districts counties would not give us the smallest

scrap of additional power for the relief of congestion which we have not got already. By the powers we have already we can take every perch of untenanted land in Cavan for the relief of congests, and we cannot do more. We have that power, even though it is not a congested county. If it were made a congested county it would not make the slightest difference.

Mr. GOREY: Will it not give you quicker machinery and more expedition? Is not that a difference?

Mr. HOGAN: The objection is that the amendment is superfluous, and it is an extraordinary thing that we should reach Clause 21 without knowing the terms in it.

Mr. GOREY: The question, then, may be asked: Why were there congested areas for any of the counties? Why is there a distinction in the Bill? Several counties in Ireland were scheduled as congested areas. The valuation is quoted. This county of Cavan comes down to the same rateable value as the other counties in the schedule. They come down to a smaller farming area. What, then, is the objection? One effect of being scheduled as a congested area is it will give you quicker machinery and more expedition. Will not that be in favour of getting the county schedules?

Mr. HOGAN: No.

Mr. GOREY: Why?

Mr. HOGAN: When you sit down I will tell you.

Mr. GOREY: We have not been answered that, and the answer has been kept to the last. Will not the date be an earlier date, and will it not be definite? I cannot follow Deputy Milroy at all. The bald assertion that it is a political stunt is the only thing that is clear. Judging from the look of the Deputy, it certainly is the only thing that is clear.

Mr. HOGAN: It is not at all necessary or essential, or does not follow from the Bill, that the land in the congested county should be taken first. Whatever land is convenient will be taken first. We found the Congested Districts Board there and left it there. These districts were explored, and it has been found that all the land available in those districts

will be necessary. Hence we acquired them as a matter of course. One should be clear on that point. We are yet to explore all the other counties, and we are taking full powers to take any land we require to take in County Cavan when we have our explorations completed.

Mr. WILSON: The Bill provides that all untenanted land in the congested districts taken, and any other untenanted land which, in the opinion of the Land Commission, will be required before a certain date, has to be declared before an appointed date. Would it not be better if this particular congested area were scheduled? You would have all untenanted land in Cavan ready for parcelling out among the people who require it. Would not that be an advantage to the Bill, would it not help along this burning question of congestion, and would it not place the Minister for Agriculture, or the man in charge of the Land Commission, in a better position to have it decided then and there, that all the untenanted lands in Cavan were ready for parcelling?

Mr. HOGAN: It was intended to take up untenanted land in the County Cavan before any other untenanted land in Ireland, and that is the real reason why I am resisting this amendment.

The Dáil divided: Tá, 18; Níl, 35.

Tá.

Donchadh Ó Guaire.
Seán Ó Duinnín.
Domhnall Ó Mocháin.
Tomas de Nóglá.
Darghal Fíges.
Tomás Mac Foin.
Seán Ó Ruanaidh.
Liam Ó Briain.
Tomás Ó Conaill.

Gearóid Ó Súilleabháin.
Uaitéar Mac Cumhaill.
Seán Ó Maolruaidh.
Micheál Ó hAonghusa.
Pádraig Mac Ualghair.
Seosamh Mac Suibhne.
Peadar Mac a' Bháird.
Seoirse Ghabhain Uí Dhubhthaigh.
Seán Mac Garaídh.
Micheál de Staineas.
Domhnall Mac Cárthaigh.
Éarnán Altún.
Sir Séamus Craig.
Liam Thrift.
Liam Mac Aonghusa.
Pádraig Ó hÓgáin.
Pádraic Ó Máille.
Seoirse Mac Niocaill.

Níl.

Aodh Ó Cúilacháin.
Séamus Éabhróid.
Risteárd Mac Liam.
Cathal Ó Seanáin.
Domhnall Ó Broin.
Domhnall Ó Muirgheasa.
Risteárd Mac Fheorais.
Micheál Ó Dubhghaill.
Domhnall Ó Ceallacháin.

Fionán Ó Loingsigh.
Séamus Ó Cruadhlaoidh.
Croistóir Ó Broin.
Caoimhghin Ó hUigin.
Proinsias Búfin.
Séamus Ó Dólaín.
Aindriú Ó Láimhín.
Proinsias Mac Aonghusa.
Eamon Ó Dúgáin.
Peadar Ó hAodha.
Séamus Ó Murchadha.
Liam Mac Sioghaird.
Tomás Ó Domhnaill.
Earnán de Blahgd.
Unseann de Faioite.
Séamus de Burea.
Seosamh Mac Giolla Bhrighde.

Mr. WILSON: You did not say that.

Mr. MILROY: Why not schedule Kilkenny and Wicklow as congested districts?

Mr. GOREY: They are not congested.

PADRAIC O MAILLE: I think that instead of adding additional congested counties, we should move to abolish congestion in all counties. I do not see the object of this amendment at all, because in the Bill, as the Minister for Agriculture has stated, all untenanted land can be taken up for distribution amongst the tenants, and I thoroughly agree with the attitude taken up by Deputy Milroy towards this question. It is not improving the position of the unpurchased tenants in Cavan a single bit. Their cases can be dealt with equally well under the provisions of the Bill as if this amendment were adopted. I think the amendment is altogether unnecessary, and that it should not be adopted.

Mr. DOYLE: There was nothing at all to prevent Deputy O Maille, if he thought to wipe out congestion in its entirety, to put in an amendment to that effect, but he has not done so. He now states that it should be done, and I hope it will come on on the Report Stage.

Amendment declared lost.

Motion made and question put: "That Section 21 as amended stand part of the Bill."

Agreed.

SECTION 22.

(1) As respects tenanted land the price of each holding shall be a capital sum, hereinafter called "the standard price," of such amount that interest thereon at the rate of $4\frac{1}{2}$ per cent. per annum will be equal to the standard purchase annuity for the holding as ascertained in accordance with the first schedule to this Act together with a contribution by the State to the price calculated at 10 per cent. on, and added to, the standard price.

(2) As regards untenanted land the price shall, in default of agreement, be such an amount as may be fixed by the Land Commission (other than the Judicial Commissioner), or by the Judicial Commissioner on appeal from the Land Commission, and in fixing such sum regard shall be had to the fair value of the land to the Land Commission and the owner respectively.

Mr. JOHNSON: I move: In Sub-Section (1) to delete the words "together with a contribution by the State to the price, calculated at 10 per cent. on, and added to, the standard price." The matter dealt with in this amendment was discussed to some extent on the Resolution, and I suppose it will be considered waste of time to go very far into the discussion a second time. But I think it necessary to re-state shortly the objections to adding 10 per cent. for the benefit of the landlords. I think it was Deputy Magennis who tried to draw comparison between the bonus to the landlords and State contribution to the Unemployment Fund, and his friends of the *Freeman's Journal* took the cue and asked were we prepared to agree to the cancellation of the Unemployment Fund, as we demanded the cancellation of this bonus to the landlord. On the same terms we are. If the unemployed workman, as I said, wishes to be put in as good a position as the unemployed landlord, then it would be a very fair exchange for the abolition of the Unemployment Insurance Fund. The proposal of this Bill is to relieve the present landlords of their responsibilities as administrators of their estates, and they are to be recompensed for that disem-

ployment by a payment in perpetuity of 65 per cent. of their present income from the land. I think they are making a very good bargain, and that they are being treated very generously, and if it could be afforded to every other citizen who was compulsorily disemployed then I would have no objection to giving the same kind of treatment to landlords. Unless we are thinking of the landlord as doing something for the rent he is drawing we can only think of him as having had a privilege conferred by the law which allows him to draw from the producer of wealth from the soil the annual toll of privately-imposed taxes. If that is the position, if that is the privilege, and it is that privilege which is being purchased from him by the State, then I repeat, what I said the other day, that what is being considered by the promoters of the Bill to be a fair sum to be paid annually for a number of years by the occupier should be the sum which is to be paid over to the landlord, and no more.

If, on the other hand, we are to conceive of the landlord as having given something in exchange for his rental, if, in fact, he has been a useful citizen, and is fulfilling useful functions as a landlord, but that you no longer require his services, then he is in the position of an employed man who has lost his job, and it is not usual to pay to an employed man who has lost his job 65 per cent., plus something as compensation, in perpetuity. I do not know whether anyone will say in this Dáil that the landlord has fulfilled a useful function and that his payment by way of rent is payment for services rendered. If there is such a one in the Dáil I should like to hear his defence of the landlord, and some explanation of what his service is. On the other hand, if he has not given any service, if this thing we are buying is merely the legal right to draw rent, then again I contend that the figure which has been deemed to be a fair charge upon the working occupier should not be exceeded in the payment to the landlord. The small sum, which was described as round about £40,000 or £50,000 a year, if that is an accurate estimate of the amount that will be called for, might do very much better service, and might be very much more usefully expended for the next generation or two than by paying it over to the land-

lords, even though those landlords may be people in America who invested money or may be charitable institutions or any public bodies. They took the risk with the purchase; they knew the position of Irish land; they knew the probabilities in regard to land purchase; they knew that there was a risk, and they had no right even to expect that the State would add to what the tenant might be deemed to be capable of paying. Notwithstanding all that was said upon the Resolution empowering this money to be paid, I still contend that there is no case, no satisfactory case, put forward to make a charge upon the State of this 10 per cent. to be added to the standard price, and I therefore move the deletion of these words: "together with the contribution by the State to the price, calculated at 10 per cent., to be added to the standard price."

Mr. SEARS: It has been said several times during this debate that this Bill is in the nature of a bargain—

Mr. JOHNSON: Between whom?

Mr. SEARS: The Minister for Agriculture has been congratulated upon striking a happy medium between the terms asked for on the one side and the other. If I mistake not, Deputy Johnson, himself, on the last day admitted it was in the nature of a bargain and that being so, it is waste of time to trouble the Dáil with disquisitions on first principles. Now, anyone considering the completion of Land Purchase in Ireland would certainly have that consideration governed by what took place under the former Purchase Acts. Under the 1903 Act there was a bonus. There was a considerable amount of money sanctioned by the State and approved by the people generally and by all classes of taxpayers, as a useful and necessary gift, in the phrase used then "to bridge the gap." Now we have argued on the tenants' side that the policy of 1903 should be continued and should be carried out to completion, and if we argued that on the tenants' side, is it not fair that the policy pursued under the 1903 Act on the landlords' side should also be carried to completion? Is there no necessity for a bonus under this Act? Now, take £100 rental; under the 1903 Act the average price paid for that was £2,585. Under this Act the tenant is only giving the

landlord for the purchase of £100 rental £1,360, and, with the addition of the bonus, that only comes to £1,580 (or £1,570, I am not quite certain. Certainly if you compare the price £2,585 with the figure £1,580, you must admit there is a great disparity. If there was a bonus necessary in 1903 to make the 1903 Act function, then much more so is a bonus necessary under this Act, and if the principle was fair in 1903, and was sanctioned by the Nation, what reason is there now for objecting to it? I say there is no reason. We are in justice bound to it. There is a national consideration—to heal a great wound and to bring a long quarrel to an end. All classes are interested in bringing that quarrel to an end. Even the humblest worker in Ireland, whether a worker in the town or in the country, is vitally interested in this question, and he is vitally interested in seeing peace established. It means a better chance for the future for him to have this Act passed, and passed as satisfactorily as possible. I cannot imagine the humblest agricultural labourer in the country, seeing the landlords and tenants about to come to an arrangement, and, then, seeing Deputy Johnson coming on the scene striving to break up the bargain, to drive them asunder again, trying to delay the completion of this arrangement suggested by the Minister for Agriculture in this Bill. I cannot imagine him saying that Deputy Johnson was speaking for him.

I think we should take the Bill as a whole; it is a fair bargain. It follows on the lines of the Act of 1903, and it makes a very good attempt to do justice to both sides, as far as justice can be done. We would all agree with Deputy Johnson if we were dealing with virgin soil and could wipe away all the old claims, all those claims and all those precedents and rights which have accumulated, and which cannot be wiped out so easily. I think this Bill makes a fair attempt at justice and this amendment should not be accepted, as it would destroy the Bill and throw us back into the melting pot and defeat the intentions of all sides.

CATHAL O'SHANNON: I think Deputy Sears will find that when the agricultural labourer makes himself vocal he will be found voting with Deputy John-

[Cathal O'Shannon.]

son, particularly as regards this amendment. The analogy between the 1903 Act and this Act does not stand at all. I am sure Deputy Sears knows perfectly well that there was not the unanimous sanction of the nation, or even of the taxpayers of Ireland, in 1903 to the bonus to the landlords. The conditions then were quite different to what they are now. In the first place, it was the British Parliament that brought in that voluntary purchase and sale Act. The credit behind it was not merely Irish, but British. That brings me to the question of the credit behind this particular Act, but I am not going to deal with that now. A good many people in Ireland were fooled into the belief that it was the British who in the long run were actually paying for the purchase of the Irish tenancies. That, of course, was not true. This, on the other hand is an Irish Parliament which is dealing with an Irish problem. The money involved is Irish money, and nobody, as Deputy Johnson says, in this Dáil, whatever about other places, will get up and say that the landlords, as a class, did real service to the nation in the past, or, as a matter of fact, fulfilled the duties that were fulfilled by landlords in other countries. They did not do that, and they have not done anything that makes them deserving of special treatment in this case, even in the small matter of improvements. It is notorious that, whereas English landlords looked after the improvements on the holdings of their tenants, and in many cases helped to capitalise their tenancies, there is not anything like that in the records of landlordism in Ireland. With the exception of a few who used to be called good and decent landlords, there is nothing creditable, decent, or serviceable in the whole record of landlordism in Ireland. If there was there might be something to be said for this bonus. Deputy Magennis and some others the other day advanced a rather ingenious theory that this 10 per cent. is really not in relief of the landlord at all, but in relief of the tenant; that the position of the tenants is so bad that they are not able to pay a fair price to the landlord, and because of that the community as a whole must make up what the tenants cannot pay. Apply that—and it is a logical thing for any man to do—apply

the principle anyway generally and you will find that the Minister for Finance, at all events, will not be prepared to carry out that theory in other respects. You have certain disputes at the moment. There is one, for instance, in Waterford, where farmers say that they are not in a position to meet the demands that are made upon them by certain of their employees. If that is the case, why, then, should the Ministry of Finance not come along and put down what the farmers are not able to pay their employees. It will be said, I suppose, "Oh, in that case it is the labourers who are concerned, but in this case it is the landlords who are concerned, and that makes all the difference in the world." It is a surprising thing to me that Deputy Sears, above any man in the Dáil, should stand up in defence of the landlords. He knows better than I know, because he was in the movement at the time and I was not, that there was a good deal of dispute about the bonus under the 1903 Act, and he says this Act is merely to complete that. I do not think it is. It is an Act for the completion of land purchase, and in his really serious moments Deputy Sears would not, I think, agree that the 1903 Act was an Act such as an Irish Parliament, had there been an Irish Parliament at the time, would have passed. No, because there were other parties concerned; but now you have no parties concerned except three—the tenants, the landlords, and the Irish people. With Deputy Johnson, I object to pay the landlords out of the pockets of the Irish people.

Professor MAGENNIS: I am afraid I must disclaim the credit for affording Deputy Johnson a text upon which to hang a disquisition on property, on rights, and on the relation of the State with regard to both of these. It was not I who suggested this false parallel, as he called it, between the labourers and the land question.

Mr. JOHNSON: I am sorry if I made a mistake.

Professor MAGENNIS: There is really nothing to regret on the part of Deputy Johnson, although there may be something on my part. Some people have very peculiar notions with regard to property. A man rang up a pawnbroker between the hours of 12 midnight and 1

a.m., and when the pawnbroker at last appeared at the window the disturber of his peace asked, "What o'clock is it?" The pawnbroker said, "Did you take me out of bed merely for that?" and the other replied as well as he could, "Well, you have got my watch." Evidently some extraordinarily fantastic doctrine of the rights of man, the rights of a State, or the rights of people has got possession of Deputy Johnson's mind. We have in his speech, and in the speech of Deputy O'Shannon, all sorts of misleading analogies. I remember on a previous occasion Deputy Wilson and I crossed swords with regard to the imaginative character of the people and as to the desirability of training and developing the imagination. Imagination to-day runs riot in analogies. The first and most misleading of them is that by which a landlord is made to appear an employee who is now to be discharged. That is a delightful example of begging the question. Deputy Johnson is, of course, covertly formulating a doctrine which is one of the very latest put forward by a Law Professor in France, the substitution of the idea that rights are the correlative of duties, that rights are the correlative of functions, and only in so far as a man does some work for the community, has he any rights against the community, and that the measure of his right is the measure of the value of the functions which he discharges. Now, that may be a perfectly sound doctrine but it is not the doctrine that the world at large has accepted.

Mr. JOHNSON: It may be if we help it.

Professor MAGENNIS: Under cover of an amendment to the Land Purchase Act, to attempt the initiation of a new crusade is certainly not unambitious. There is such a thing as reasonable expectation. The doctrine of this has been already developed by Deputy Johnson himself. Therefore, I think I am right in regarding him as believing in it, for I am sure he would not teach any doctrine which he had not himself accepted. It is one of the foundations in all social intercourse in all steady institutions of society, that where a man is encouraged to entertain certain reasonable expectations in regard to life, it would be unjust, immoral, that is to say, to defeat these expectations. That no one knows better

than Deputy Johnson, is the basis of a great many things that are the source of convenience in social life. For example, the whole law of estoppel is based upon it. If I permit a man to begin building a hotel on a piece of land, the title deeds of which are in my possession without his knowledge, and I look on and allow him to put up this huge fabric, I cannot then subsequently go into Court, having looked on and allowed him to do this thing; in technical jargon I am estopped. Suppose we were to take an analogy which has escaped the imagination of those Deputies, that landlordism was piracy—

Mr. O'CALLAGHAN: Hear, hear.

Professor MAGENNIS: I am delighted to know there is one member of the Labour Party who is not afraid to put it into explicit language. Suppose the pirate is retiring from business compulsorily—

Mr. O'CALLAGHAN: At the yard-arm.

Professor MAGENNIS: Is society obliged to compensate him for the loss? Obviously not, because, in the opinion of all right-minded men, the trade in which he was engaged was anti-social and immoral. Now, it has not yet been accepted by any reasonable body of men that private property, more particularly private property in land, is immoral, and until the Irish people who, as Deputy O'Shannon rightly says, are those concerned in this transaction, and the only people concerned, have been convinced that property, which is a necessary appanage to the development of personality, is an immoral and unrighteous thing, a doctrinaire is not to come and make his peculiar doctrine an absolute bar to the solution of a great problem, which brings peace and security to the whole Nation. As Deputy O'Shannon is so keen about logic, let us have some logic; I mean let us have some of his peculiar brand of logic, namely, deduce conclusions that you have first of all made up your mind to draw, by arranging to have premises from which these conclusions can be drawn. That is the conception of logic to which I am referring. The nation owns the land—

Mr. O'CALLAGHAN: Hear, hear.

Professor MAGENNIS: When I quoted that a few days ago, Deputy Johnson said "hear, hear." Some of his henchmen say "hear, hear" again. Therefore, I am entitled to regard that as the accepted doctrine of the occupants of the benches on the left. Is there any meaning in ownership?

Mr. JOHNSON: Yes.

Professor MAGENNIS: Very good; what is it?

Mr. JOHNSON: Use.

Professor MAGENNIS: Control of the disposition and use; either ownership involves that; and if it does not involve that it is an idle word.

Mr. JOHNSON: Hear, hear. Ask the men behind you.

Professor MAGENNIS: The owners of the land are the Irish Nation, and in this Parliament, representative of them, they decide, for peace and future expansion, to convey to the tenant-occupier such control as is conventionally called ownership for the most beneficial use of the land, and, according to these Deputies, that is not legitimate.

Mr. JOHNSON: Who said that?

Professor MAGENNIS: Pardon me. I allowed you to develop your argument. It has become a set practice amongst the occupants of the benches on the left, from the moment I begin to speak until I sit down, to attempt to cultivate dialogue.

Mr. JOHNSON: On a point of explanation, I do not desire to interrupt the Deputy, or to prevent him developing his argument, but he has made a statement interpreting things we said which is certainly not correct.

Professor MAGENNIS: I am open to correction.

Mr. JOHNSON: I miss the point.

Professor MAGENNIS: It must be an exceptionally serious misrepresentation when it escapes the memory of the offended Deputy within the thousandth part of a second.

Mr. JOHNSON: If the Deputy will repeat it, I will question it.

Professor MAGENNIS: Very good. I

was speaking about this 10 per cent. bonus being contributed by the State, and I had got thus far in the argument, that according to Deputy O'Shannon and Deputy Johnson the Nation is the owner of the land. According to Deputy O'Shannon nobody but the Irish people is concerned in this matter, which is dealing with the land that is theirs. I argued if that were so, any real exercise of ownership on the part of the Nation involved so dealing with the land as to secure the utmost production from it by way of benefit.

Mr. JOHNSON: Hear, hear.

Professor MAGENNIS: That was accepted by Deputy Johnson. I was invited to preach that doctrine to the Farmers' Party behind me—preach to those who already hold that, and have held nothing else but that for generations. I argued that when it becomes a question of the machinery by which this transfer of the lands to such men as would make the most of it for the benefit of the Nation as a totality, that this Parliament was entitled, in the name of the Irish Nation, whose legislative agent it is, to make such terms or such arrangements as render that feasible. Now, that is the stage at which I have arrived.

One of the obstacles to the feasibility of that arrangement is that there are other citizens in the Free State who hold a different doctrine with regard to the ownership of the soil and its disposition from what is generally entertained by the Irish people, that, as Deputy Sears put it, we are not in fact dealing with virgin soil, we are not, as I put it the other day, legislating in a vacuum. We are not theorists. We are dealing with facts as we find them, and as we find them we have a class of men who for centuries have been regarded as the land owners. Nobody ever declared that immoral. Many people have thought it undesirable and the sentiment of the Irish people, traditional and otherwise, is against it. Most progressive communities are in favour of peasant proprietorship, but the fundamental fact that we have to reckon with is that this class is the recognised—conventionally recognised—owner of the land. Unless an arrangement can be come to with that class, this Purchase Act becomes impossible. That is the situation as I envisage it. We could have no Land Purchase Bill

without the condition precedent of an agreement with the landowners. That agreement was come to. I allege that as a fact. If it is not a fact it can be controverted. If it is a fact that an agreement was come to, and that that agreement is the basis of this proposed legislation, then what is the defence for a proposition that we who are always vocal with regard to the Gaelic tradition, the revival of our Gaelic past, and all the rest of it, that we should proceed to break covenants, to turn our back upon arrangements entered into, and to say—"Now, we are going to deal with this just as we please. We have a different view of proprietary rights from what you entertained, and what you have been accustomed to accept." In other words, what we are doing here is what practical men do. A man comes along and creates a nuisance by playing a barrel organ in front of my house when I want quiet. It is easier to pay him something to go round the corner—much easier—

Mr. O'CALLAGHAN: Bribery.

Professor MAGENNIS: Bribery; that is the word. It is easier to do that than to expostulate with him about rights, and to enter into a long disquisition showing that his is an unnecessary function, that a right-ordered community has no room for an Italian barrel organ player there, and that if there was need for recreative music we should have a Gaelic piper instead of a barrel organ player. It is much easier to come to an arrangement with him than to do that. That is what practical people do. The arrangement that is come to here is an arrangement to pay a 10 per cent. bonus. Deputy O'Shannon, whose party is so sensitive about a quotation from them not being verbatim, and so sensitive about the drawing of obvious conclusions from their own statements, put into my mouth a statement which I did not use. If it had supported any argument of his I could have forgiven him, but he simply makes the gratuitous statement. I declared that the proper way to look at the payment of a 10 per cent. bonus was that that was done in relief of the farmer. That is not the same thing as saying it is paying money which the farmer cannot pay. It means that the State is paying money in order to bring about agreement between two clashing interests, between two antagonistic de-

mands, and as our interests is in the farmer and in the setting up of peasant proprietorship, naturally I consider that the money I am paying as a taxpayer, in this regard, is money paid for the sake of a settlement. If somebody chooses to prejudice the situation by saying it is the landlord walks away with it in his pocket, he is welcome to do so. There is hardly a single transaction in life that could not be parodied by anybody who would give his ingenuity to the purpose. It is a complete parody of this transaction to say that 10 per cent. is being extracted from the pockets of the Irish people to fill the pockets of the landlords who have exacted so much from us already. I grant the exaction, I grant the iniquity of the past, but I am not dealing with the affairs of the past. I am dealing with the present as it shapes the future. The money has to be paid by the State for the advantage which accrues to the State from the bargain thus secured. That is the common sense of the thing. That is the equity of the thing

Mr. JOHNSON: The statement of Deputy Magennis which I objected to—I was momentarily confused by his magnetic powers—was that we objected to the State transferring the land to such men as would make the best use of it. That I deny absolutely. We make no such objection in any shape or form. On the contrary, what we desire is to ensure that the State will transfer the land to those who will make the best use of it, and, if necessary, take it from those who refuse to make good use of it. So far as I am concerned, State ownership means the right and duty of the State to find the best means of making use of it, and I am prepared to admit even the claim that the best use that can be made of land in this period of history in Ireland is by peasant proprietorship. But there is not the slightest justification for the Deputy saying that we object to the State transferring the land to such men as would make the best use of it. The Deputy has said that this Land Purchase Bill would not have seen the light without an agreement with the landlords. Deputy Magennis may know more about these things than the Dáil. But the Dáil does not know that there has been any agreement with the landlords to pay 10 per cent. bonus over and above what the

[Mr. Johnson.] tenants can pay as annuity. No such agreement has seen the light and the Deputy is not justified in saying that this Land Bill would not have seen the light if there had not been previously an agreement with the landlords. So far as the public know, no such agreement was found possible.

Therefore the Bill was brought in in the way in which it has been brought in. So that there is no agreement with the landlords, and all the arguments of the Deputy regarding breach of covenants therefore fall to the ground. There has been no covenant. The Dáil, on behalf of the nation, has not yet made any covenant with the landlords to pay a ten per cent. bonus, or to add 10 per cent. to the price. Therefore, there is no breach of agreement or any throwing over of covenants by the acceptance of this amendment. So that part, too, of the Deputy's argument falls to the ground. The proposition is that the barrel organ player shall be removed. When the outraged resident with the musical ear, who is being disturbed, asks the barrel organ player to go away, and when the latter refuses calls a policeman, the policeman says "Please go away, here is 6d." The policeman has to pay the bonus to the barrel organ player. That is Professor Magennis's argument—that the disturbed resident who desires the barrel organ player to be sent to another neighbour shall be recompensed by the policeman. Deputy Magennis says there is such a thing as reasonable expectation, that because the landlords built upon a reasonable expectation it is not right of the Dáil to refuse to levy a tax of ten per cent. of the price upon the community. I want to know what grounds the landlords have for reasonably expecting that this 10 per cent. was to be put into this Bill? Not the slightest; not the semblance of a shadow of ground for reasonably expecting, or unreasonably expecting, or expecting in any degree, that this Section was to be put in the Bill.

Professor MAGENNIS: Of course not.

Mr. JOHNSON: The landlord contends that this is not a reasonable price that is being offered to him. Was the reasonable expectation something that

the landlord says is reasonable? Is that the argument?

Professor MAGENNIS: No, of course not.

Mr. JOHNSON: Then it is not what the landlord expected to be reasonable that is the expectation which is to be satisfied. The reasonable expectation was an expectation that the landlord had in his mind. If not that, who had this expectation? I assert that the expectation may well have been that such sum as a tenant might reasonably be expected to be able to pay in the next fifty years should be the sum which the landlord might reasonably be expected to draw, but nothing more. Deputy Magennis talked about dissertations on private property. Private property was not thought to be immoral in Ireland. He went on to say that it was a necessary appanage of personality. I accept that proposition, and, with that definition, I am prepared to uphold private property to the uttermost. But I deny that any of these landlords' rights spoken of were necessary appanages of personality. It is simply a legal right to draw rent, which legal right is being interfered with by this Bill. To what extent is it to be interfered with? That is the whole question. There is no question of rights, no question of morality, it is a question of degree of interference. Then we come down to a practical question. What is the degree of interference? The proposal is that there should be a certain income guaranteed. The Ministry think that that income can only be made up by an annuity paid by the occupier, with the addition of 10 per cent. I deny that there is any necessity for the 10 per cent. There is no question of morality, no question of private property. No question of landlordism, as a matter of fact, enters into it in this respect at any rate. It is a question as to whether the extent of the interference with these property rights, with these legal rights to draw rent, is of such a nature that it cannot be met by the payment over of the sum drawn in annuities from the tenant. I say that that should be quite enough, and I am prepared to accept the view of the Minister that the amount that the tenants are able to pay, or are likely to be able to pay, is the amount which is embodied in the Bill. Consequently I

deny the equity of adding this sum of 10 per cent., and I ask the Dáil to vote against the proposal in the Bill, and to vote for the amendment.

Professor MAGENNIS: Deputy Johnson is undoubtedly right in saying that if I attribute to him the declaration that he is opposed to peasant proprietary, then I am uttering what certainly is not true. But surely one so versed, so proficient in disputation as the Deputy, is aware that one may show the falsity of an adversary's position by drawing from the conclusions to which his argument commits him. The Deputy interrupted me, as I pointed out at the time, before I had developed my argument completely. I was engaged in showing that if he refused the 10 per cent. bonus then he put up a barrier to the settlement—in other words, he was opposing the transfer of the land to the tenant. I see no incompatibility between these two things. All that I accuse Deputy Johnson of is inconsistency in argument. While he proclaims, and rightly so, that he is an advocate of such transfer of the land as secures the best usage of it, yet my contention is that if he were allowed his way, what he proposes to do would make it impossible to secure that best usage. As regards my argument about reasonable expectations, I thought it unnecessary to develop that in full and that the Deputy would see the application of it. But I have completely misled him. He thought that when I spoke of reasonable expectation it was a reasonable expectation on the part of the landlord of 10 per cent. That was not the application of it. I was arguing against the view—no matter how hostile one may be to landlordism as we knew it in Ireland—that landlordism and piracy were identifiable in any view of society. I pointed out that when men are allowed to engage, by the sense of the community, in an occupation generation after generation, that reasonable expectations are created. That is a wholly different thing. There are promises which a man may make and which are not enforceable in a court of law. There is no valuable consideration. Yet, in the law court of conscience they would be enforceable if there were any external sanction applicable. There is a reasonable expectation among men, in their intercourse from day to day with other men, that promises will be kept,

although there is no legal sanction to enforce the keeping of the promises. I said that all our life, the life of intercourse, is based to a large extent upon the non-defeating of reasonable expectations which conduct and custom have created in a body of men. That is a different thing altogether from alleging that the landlords had a reasonable expectation created for them of receiving 10 per cent. I had no intention of suggesting any such thing. With regard to agreement, if I said anything that purported to declare that a specific agreement, a date and an hour for which could be given, was the basis of this Land Purchase Bill then I must withdraw it because it would be untrue. What I am referring to is the long line of negotiations of which we are all more or less cognisant—as regards myself, less cognisant—the long line of negotiations between landlord and tenant and various interveners between them. We know that before the Partition Act of 1920 there was an attempt at creating an understanding. We know—if we had no other authority we had the excellent authority of Deputy Gorey yesterday—that there were attempts at agreement, and we all know perfectly well that the attempt to reach something like perfect agreement antecedent to the introduction of this measure broke down. Deputy Gorey was one of the protagonists in the effort to reach agreement. I am not ignorant of all that. I am ignorant of a great many things, but I have a vague knowledge that that is the fact. Again let us not deal with things in a vacuum. It is enough for me that I deal with abstractions as a lecturer on metaphysics, but am I to be haunted with abstract discussions, spectres of the abstract, in every department of life? This position taken up by the landlord and that position taken up by the tenant, each of them has a history. All these have antecedents, and what they are can only be understood by considering them in relation to their antecedents. Take the whole concrete, complex as it is. Therefore I say, and I repeat it without fear of being contradicted, that no Land Purchase Bill capable of being put into intelligible words, and of being reasonably adopted by any reasonable body of men would be possible at all if it were not for these historical antecedents that have led up to and made the thing possible. That is a very different thing from

[Professor Magennis.] alleging that there is something in the nature of a bargain—vague and indefinite, perhaps, but still something in the nature of a bargain. There is too great a tendency I say, with all respect to Deputy Johnson, to take the literal meaning of words without considering the context that gives them their colour and value. I am not going to repeat even by way of refutation of Deputy Johnson any doctrine about private property. The fact that we have to deal with is simpler than to come to a conclusion about private property. These landlords may be regarded as the enemy. Suppose we look upon them for convenience in that light. Although they are and will be I hope citizens of the Saorstát, let us call them the enemy. Now, in all disputes there are only three ways of reaching a conclusion. One is by war or by force, to use words that are not international in significance. Another is by law, the exercise of right reason, and the third is by one of the parties surrendering absolutely. That is to say, the dispute is settled by the dispute removing itself out of existence altogether. Neither of the disputants in the present case will resort to that easy solution, and consequently we have either to settle this dispute by force or by law. Force was tried from time to time. I am old enough to remember the moonlighters. I remember the land war. I also know that force was tried from the other side. I have read about the clearances of Westmeath, and I know what the plantings were in my own county. The time has arrived for compromise, for arrangement. "Compromise and barter," says Burke, "are the source of all the enjoyment in life." "We give and we take and we choose," he says, "rather to be happy citizens than to be subtle disputants." When that choice is forced upon me by my friends on my left, to be a happy citizen or the subtle disputant, I prefer to be the subtle disputant only in the lecture room.

Mr. JOHNSON: And we are the happy citizens.

Mr. HOGAN: I have nothing to add to what has been said. I want to point out, however, that we are not discussing price on this amendment. What we are discussing is whether a contribution

should be paid or not. That has really got nothing to do with the question of price. Whether the price is big or small the same question arises. Deputy Johnson has altered his position from that which he took up on the discussion that took place on the Money Resolution. His position then was that if £1,500 was a fair price the tenant should pay the whole of it, and if £1,368 was a fair price then that is all that should be paid. I said that I accepted that position, and we need not, I repeat, now go into the question of price. It will come up later on the Schedule. What Deputy Johnson has forgotten is that we have got to borrow the money to pay the price. Assume, for the sake of argument, that £1,505 is a fair price. As I say we have to borrow the money at $4\frac{1}{2}$ per cent. We could borrow it before at $2\frac{3}{4}$ or 3 per cent. We made up our minds that we would save the tenants from the consequences of dearer money, and that is why we pay this contribution. That is a very simple explanation, and it is the long and the short of it. The same argument would hold good whether the price were £1,368 or £1,500. We would be equally wrong and equally right in either case. What we did make up our minds to in any event, whatever the price was, we would save the tenant from the increase in the price of money that resulted from the European War.

There is not one single argument that existed in 1903 that could justify the bonus or what we call the bonus in 1903, and there is not one of these arguments now advanced. If the only arguments to justify the bonus were the arguments to justify it for 1903, then we would not have defended it. I am giving away on the point of bonuses. If the circumstances were the same, if the European War had never occurred, there would have been absolutely no reason whatever for the State paying a single penny, and Deputy Johnson's dilemma would have been unanswerable. There is only one argument in favour of this contribution which was not in existence in 1903, and which is in existence now notwithstanding all the arguments about 1903. That is that the European War has occurred and money has reached $4\frac{1}{2}$ per cent., and having regard to the fact that the tenants were unlucky in not purchasing under the 1903 Act, and before the war broke

out, we came to the conclusion that we would save them from the consequences of this dear money, and we paid them

this bonus, and it is upon that basis that we are justifying it.

Amendment put.

The Dáil divided: Tá, 11; Níl, 39.

Tá.

Tomás de Nógla.
Tomás Mac Foin.
Liam Ó Briain.
Tomás Ó Conaill.
Aodh Ó Cúlacháin.
Seamus Éabhróid.

Seán Ó Laidhin.
Cathal Ó Seanáin.
Domhnall Ó Muirgheasa.
Risteárd Mac Fheorais.
Domhnall Ó Ceallacháin.

Donchadh Ó Guire.
Gearóid Ó Súilleabháin.
Uaitéar Mac Cumhaill.
Seán Ó Maolruaidh.
Seán Ó Duinnín.
Micheál Ó hAonghusa.
Domhnall Ó Mocháin.
Pádraig Mac Ualghairg.
Seosamh Mac Suibhne.
Peadar Mac a' Bháird.
Seán Mac Garaidh.
Micheál de Staines.
Domhnall Mac Cárthaigh.
Maolmhuire Mac Eochadha.
Earnán Altun.
Sir Seamus Craig.
Liam Thrift.
Liam Mac Aonghusa.
Pádraig Ó hÓgáin.
Pádraic Ó Máille.

Seoirse Mac Niocaill.
Pítras Béasláí.
Finnán Ó Loingsigh.
Seamus Ó Cruadhlaoich.
Cristóir Ó Broin.
Risteárd Mac Liam.
Proinsias Bulfin.
Seamus Ó Dólaín.
Aindriú Ó Láimhín.
Proinsias Mac Aonghusa.
Eamon Ó Dugáin.
Peadar Ó hAodha.
Seamus Ó Murchadha.
Seosamh Mac Giolla Bhrighde.
Liam Mac Sioghaird.
Tomás Ó Domhnaill.
Earnán de Blaghd.
Uinseann de Faoite.
Seamus de Burea.

Amendment declared lost.

Motion made and question put:
"That Section 22 stand part of the Bill."

Agreed.

Mr. HOGAN: Before we pass away from Section 22 might I make a suggestion? It deals with price, and we have disposed of the only amendment on the paper to that particular Section. It refers, however, to the Schedule. There is an amendment 96 to the Schedule, and I would suggest for the consideration of the Dáil that the most suitable time to deal with that particular amendment would be now immediately following this discussion on the 10 per cent. so as to deal with the whole question of price together. I would suggest it would be the most convenient and suitable thing to dispose of this question of price and of all the amendments, and that all the amendments on price be taken at the same time. It would necessitate going on to the Schedule and dealing with Amendment 96. The Schedule, however, is referred to in the Section we are dealing with. Though it might be unusual it would be more convenient

for the Deputies, and such a procedure would be more likely to get full consideration for the whole question of price than if we were to deal with one part of the question now and another later on. I suggest we should deal with the whole Section before we pass away from this.

AN CEANN COMHAIRLE: That is a procedure which is unusual, and if we were to take it I think we would need unanimity.

Mr. HOGAN: I realise that. We could only do it with the consent of the Dáil.

Mr. JOHNSON: I think that suggestion is a very sensible one and might be well made a regular practice where the Schedule is appertaining to a particular section only. The only doubt in my mind is whether there might possibly be further amendments allowable which have not yet been sent in and which might be considered desirable in the minds of the Deputies in the course of the discussion.

AN CEANN COMHAIRLE: That is to say, amendments to the Sections?

Mr. JOHNSON: To later sections, yes, or even to the Schedule.

AN CEANN COMHAIRLE: Well, I can explain that. The amendments which have been circulated are the only amendments which I have accepted so far, and I have refused to accept certain amendments, including amendments from the Minister for Agriculture himself, so that there will not be any more amendments for this Stage. On the other hand, amendments may be moved later which will necessitate a further Committee Stage, but as far as this particular Committee Stage is concerned the only amendments to be moved are on the paper which is in the hands of Deputies. The Bill may be re-committed, either in whole or in part, later on, but as far as this Committee is concerned I think that all the amendments are on the paper.

Mr. HOGAN: In point of fact, I think everything points to the necessity for re-committing the Bill for the purpose of some amendments later on.

Mr. JOHNSON: I am not concerned so much with this Bill. I am rather concerned with the ruling, as to whether it ought to be taken as a precedent that when a Bill, which might be even longer than the Land Bill, is down for Committee Stage on a given date, all amendments should be in hand a certain number of days before the Committee Stage begins, where due notice, provided for in the Standing Orders, could be given, supposing there were a certain number of days before the actual section came under consideration. After all, the course of discussion in Committee might well suggest amendments to the later sections of the Bill, which amendments ought to be received while the Bill is in Committee.

AN CEANN COMHAIRLE: That is so. I think the strict interpretation of the Standing Order would be that amendments would be in time if they were received in time in relation to the day on which the particular section to which they referred would be before the Committee. But in this case the amendments were mostly to the first twenty sections, which were already down for a particular date. I did not like to confuse that matter by accepting amendments on the spot which were serious. There is actually provision in

the Standing Orders for receiving amendments in Committee without notice and Deputies can, of course, avail of that, but with regard to this particular Bill there will be amendments which will necessitate its re-committal for their consideration. With regard to the precedent of considering the Schedule now, the matter that Deputy Johnson mentioned first, namely, whether it might not be a good thing always to take the Schedule immediately after the section in which reference is made to the Schedule, is one which I think should be considered by the Committee on Procedure with a view to making a recommendation if they thought fit. But with regard to the particular happening now no precedent is created beyond that by general consent we allow the Schedule to be taken after Section 22, in which it is mentioned.

Mr. GOREY: Am I to understand that when this Bill is re-committed to Committee we will have power to put up amendments to the particular sections already disposed of?

AN CEANN COMHAIRLE: That would depend.

Mr. GOREY: What is re-committal for, then?

AN CEANN COMHAIRLE: That would depend. The whole Bill might be re-committed, in which case we could go through the Bill again and amendments could be offered to every section, but the Bill might be re-committed with a view to considering certain sections which it is proposed to amend, and in that case only the sections which were re-committed could be reconsidered in Committee. If I understand Deputy Gorey's point aright I think this would suit his case. If, on Report, he tables amendments to certain sections, if, on Report, the Minister for Agriculture, or somebody for him, tables amendments to other sections, I think the Minister, while not being obliged, would actually in fact move that the Bill be re-committed to consider these amendments, and this would enable Deputy Gorey's amendments to be considered in Committee.

Mr. GOREY: Yes. There are a few amendments which have been already considered—two of them—but I think on

reconsideration some amendments might be suggested.

AN CEANN COMHAIRLE: An amendment defeated in Committee cannot again be considered.

Mr. GOREY: But amendments to the same section can be?

AN CEANN COMHAIRLE: Oh, yes.

Mr. GOREY: Of course, taking this question of prices out of its order does not affect us very much. I do not want to stand in the way of facilitating business if it is considered that this ought to come on now. Of course it takes us a little bit by surprise, because we did not expect it to be taken this evening, but I do not want to obstruct the business.

AN CEANN COMHAIRLE: It is agreed then to take Schedule 1 now.

An Leas-Cheann Comhairle took the Chair at this stage.

FIRST SCHEDULE.

STANDARD PURCHASE ANNUITY.

Part I.

Holdings subject to Judicial Rents.

The standard purchase annuity shall in the case of each holding be an annuity of an amount equivalent to a percentage of the judicial rent payable in respect of the holding namely—

- (a) in the case of rents fixed before the 16th August, 1911, 65 per cent.
- (b) in the case of rents fixed after the 15th August, 1911, 70 per cent.

Part II.

Holdings subject to rents other than Judicial Rents.

1.—The standard purchase annuity in the case of every holding to which this part of this Schedule applies—

(a) Where the landlord and tenant so agree in the prescribed manner and within the prescribed time shall be the amount so agreed upon, and

(b) Where the landlord and tenant do not agree shall be such amount as shall be fixed by the Land Commission (other than the Judicial Commissioner), subject to an appeal to the Judicial Commissioner whose decision shall be final.

2.—The annuity shall be fixed by the Land Commission on the report of their Inspector and without hearing in Court,

regard being had to the nature and situation of the holding, the date of the commencement of the tenancy, the rent payable thereunder, and all the circumstances of the case.

3.—This part of this Schedule applies to every holding which (a) at the date of the passing of this Act is subject to a rent other than a judicial rent, and (b) vests, or will vest, as tenanted land in the Land Commission under this Act.

Amendment by **Mr. GOREY:**—

“ To delete Part I, and insert in lieu thereof the following:—

‘ HOLDINGS SUBJECT TO JUDICIAL RENTS.’

The standard purchase annuity shall in the case of each holding be an annuity of an amount equivalent to 60 per cent. of the judicial rent payable in respect of the holding provided that:

(a) where the judicial rent payable in respect of the holding has been adjusted by agreement between the landlord and tenant, the average yearly rent actually paid by the tenant during the period of ten years, up to and including the gale day next preceding the passing of this Act, shall be deemed to be the judicial rent payable in respect of the holding, for the purpose of determining the standard purchase annuity as aforesaid, and

(b) where the judicial rent payable in respect of the holding has been fixed by agreement between the landlord and tenant on the reinstatement of the tenant in his holding after having been evicted, the Land Commission, on the application of the tenant, shall cause the holding to be inspected, and shall fix an annual sum upon the same principles as a judicial rent upon receiving the report of their Inspector and without hearing in Court, and such annual sum shall be deemed to be the judicial rent payable in respect of the holding for the purpose of determining the standard purchase annuity as aforesaid, and the decision of the Land Commission shall be subject to an appeal to the Judicial Commissioner, whose decision shall be final.

(c) where the tenant of any holding in respect of which judicial rent is payable shall apply to the Land Commission for an inspection of the holding, on the ground that the holding is inadequate security for the advance to be made in pursuance of the provisions of this Act, and the Land Commission are

satisfied that reasonable ground exist for such application, the Land Commission shall cause such inspection to be made, and on the report of their Inspectors, and without a hearing in Court shall fix the standard purchase annuity in respect of such holding on the same basis and having regard to the circumstances specified in this Act as if the holding were subject to a rent other than a judicial rent, and the decisions of the Land Commission shall be subject to an appeal to the Judicial Commissioner, whose decision shall be final."

Mr. GOREY: The amendment is to increase the standard reduction from 35 per cent. to 40 per cent. I think the chief things you require are reasons to prove that our contention is right. The Minister asked for some figures yesterday. We intend to make some comparisons that, we hope, will convince him that the price ought to be less than in the Bill. The question is the sale of land, and the value of land. We ought, I think, to take a parallel from the values of land in years gone by, from 1903, 1909, 1918, or 1920, when this question of land was under consideration, and was more or less the subject of agreement with the landlords in legislation, and we must, if we want to ascertain the value of land now, take a present day comparison and deal with the value at the time we are dealing with the case. There are reasons why sentiment makes Irish land more valuable than land in any other country. It is the only means of existence for the agricultural population; they have no other outlet; they have either to settle on the land or go away and the race is to die out. Men want to marry; they want a home and they want to settle down. The natural law urges them to find a home, and you cannot get behind that. Therefore the price of land in this country, what is known as the tenant's interest, brings more than its real value, and the price is not in proportion at all to the actual commercial value of the land. Let us take the nearest country to ourselves for a comparison. Take the sale of English farms, and in doing so, remember that we are measuring things on a standard different altogether from that which can be applied to this country. There is such a thing here as tenant interest and landlord interest. In

England you have only the landlord's interest, and when they sell land they sell it absolutely in fee simple. English land in the open market is bringing about eleven years' purchase of the present rental. The holdings are much larger than in this country. There is no comparison at all—

Mr. HOGAN: What about the rentals?

Mr. GOREY: The rentals are larger in this country; slightly larger.

Mr. HOGAN: So I thought.

Mr. GOREY: The land is fallow in England this year. It is without tenants. They are waiting for somebody to go on and they cannot get them. There is no use in sneering at things at all.

Mr. HOGAN: On a point of order, I am not sneering.

Mr. GOREY: You know how sensitive I am.

Mr. HOGAN: I am quite happy at the prospect of large tracts of England waiting for landless men in Ireland to take them over for nothing.

Mr. GOREY: The Minister ought not to knock me off my balance. He did not need to interrupt at all, really. If we look at this thing from a commercial and sensible point of view, we must take into account what is done by the English landlord for the land. The English landlord undoubtedly has done much. Deputy O'Shannon speaking here this evening asked what has the Irish landlord done for the land, and he was answered truthfully—"nothing." In England you see farms of three or four or five hundred acres with valuable steadings. What relation do these steadings put up by the landlord bear to the value of the land; what could they be erected for to-day, and how would the value of the average English farm of three or four or five hundred acres compare with the value of the steadings of the land? What would it cost to put up these steadings, what is the value of them to the man who wants them; what would the average English farm come to if it were in Ireland; what would the fencing of the English farm be put up for, and what would its drainage be com-

pleted for? These are all valuable commercial assets that have been created by the landlord, and he is selling them at about 11 years' purchase, and is glad to get it, and glad to be relieved of the land at any price. What are the conditions in Ireland? We have small farmers, men with a few acres, men with a small valuation trying to eke a living out of a small patch of land, and these are the men who made the land, the buildings, fences and everything except the space on which the holdings are situated. They created by their labour, or by the lack of the landlord's labour, a tenant's interest in Ireland that is worth something in the open market. Any improvements the landlord ever did in Ireland were valued by the Land Commission, and put on to the tenant who had to pay for them. They were valued as against him. Anything that was done by the landlord was claimed by him, and a price was put on the land equal to the value of these improvements, and they were very few and far between, with the result that the landlord who did improve is now on the same level as the one who did nothing, because his improvement was valued as against the tenant. We are not told the real reason, but we are just told that the reason why the price of land should be the price in the Bill is to give the landlord fair play and justice. Now, if it is justice in England to sell land, the same class of land, or land of better quality and in a higher state of cultivation at a smaller price, why is it equity and justice to demand from a man almost twice the price for the same class of land? I have heard arguments in the Dáil, and I am beginning to think they count for more than the question of justice between the landlord and tenant, and that is the vested interests that have grown up. I think I heard in the Dáil from a semi-official of the Government party some reference to banks, charitable institutions, and other vested interests. Perhaps, it is in order to secure the full 100 per cent. value for the charitable institutions, banks, and other vested interests that this Bill was brought in. I think, probably it would be more in relation to justice had these institutions been put into the Bill than the talk of justice to the landlord or the tenant. I do not think we are asking too much. As a matter of fact we are asking too little;

we have come down to a smaller point than has been authorised by our people, in these amendments; they have demanded and believed they ought to get much more. It may be said what is 10s. or £1 per year to the small man. I do not think that is a statesmanlike argument, or that it has anything to recommend it. 10s. or £1 is as much to the small man as £10 or £20 is to the bigger man, and that is no reason why this 10s. or £1 is nothing to the small man, and that the landlord should get more than he is entitled to for the commercial value of his land. It ought to be based on what the land could produce, what could be sold out of it, and what profit could be made out of it, and not on any other question. If it is not based on the value of its produce or its revenue it is not based on justice, and justice cannot be done if it is not based on the commercial value.

Mr. WILSON: The Minister is reserving all his artillery to the end. The case has been put up by Deputy Gorey that land in England situated in close proximity to the best markets in the world is fetching a comparatively cheaper price than the land in Ireland, based on its unimproved value. Land in England has a value produced by the landlord or landowner and the land in Ireland that we are buying is the land in a state of nature, and the improvements on the land in Ireland are improvements produced by the toil of the workers on the land. Leaving that aside I come to compare the terms of this particular Land Bill with the terms of the Land Bill of 1903. The Minister for Agriculture the other night asked us to get out our pencils quickly and calculate how much per cent. better this Bill was than the Bill of 1903. I intended to reply to him, but An Ceann Comhairle did not give me the opportunity, and I reserved my calculations until now. One of the contentions that the Minister set up was that you must take the average as half way between 1903 and 1923. These are the premises which the Minister has set up, and thus you take the average tenant who bought his land between 1903 and 1923, and you are to take the average reduction which that particular tenant got under the 1903 Act, and then on those premises he can prove that this particular Land Bill is ten per cent.

[Mr. Wilson.]
 better. Now, I want to see how this man will stand. Take a man who is on this side of the ditch paying £100 a year rental. Under the 1903 Act he would get 25 per cent. reduction, and he would pay off his annuities in 69½ years, so that the total sum he would pay at the end of that period would be £5,212 10s. These were the premises which the Minister for Agriculture mentioned, and they were the terms mentioned by Lord Dunraven, that is, 25 per cent reduction, which would mean an annuity of £75, and that multiplied by 69½ years gives you the sum of £5,212 10s. Now, let us take the other man on the other side of the ditch waiting for this Bill to come along. He has paid a rental of £100 a year for 10 years past, which amounts to £1,000. Then he comes along to buy, and he pays £65 annuity for 68 years, which makes £4,420. He has already paid £1,000, so that his total is £5,420. Place that against the man who under the 1903 Act paid £5,212 and you will find that the man who buys under this Bill so far from being 10 per cent. better than the 1903 Act man has actually paid £200 more remembering that he has paid £100 rental for 10 years past and that it takes £52 to redeem every £1 of rent. It takes £52 out of a man's sweat and toil to redeem £1 in this case, so you can see what a bargain it is that the tenant farmers of Ireland are getting. Now here is the reason why we ask for 40 per cent. If we get a reduction of 40 per cent. or 8s. in the £ under this Bill, then a man who did not buy under the 1903 Act, taking the figures I have previously given, as a basis, would pay £132 less than the man who bought under the 1903 Act. If he only gets the reduction provided under the Bill he would pay £200 more than the 1903 man, but if he gets the 8/- he will pay £132 less. Is it too much to ask the Minister to make the price such, that we, who are here to-day legislating 68 years in advance, when we do not know what will happen, whether we shall have a Workers' Republic or not, should be put in a reasonable position by giving us the benefit of this reduction of 8/- in the £? You must remember that the times have changed. What was considered a fair standard of life, on a farm 20 years ago, will not be considered a fair standard to-

day. We have got to look at the times in which our children are growing up, and we must remember that they require a better standard than was possible in the past. We must remember we live in a free country, and that we want to enjoy the benefits this Constitution brings. We will not live in poverty, and we do not think we are asking too much when we ask for £132 out of a purchase price of £5,212 by a reduction of 8/- in the £ now. I think that is a fair case. We all heard what was stated about the price of land in England. I had land myself in Africa and I sold it at 10/- an acre fee-simple, but here in Ireland we have to pay £52 to redeem £1 of rental, and not alone that but the State has consented to spend £50,000 a year to do that. Therefore if you think over what you are doing, and look at it from the point of view of giving justice to the citizens, I reckon you are overweighting justice on the side of a minority against justice that should be given to 350,000 people who will be affected under this Act.

Mr. JOHNSON: I support the amendment on somewhat different grounds. I want to supplement the argument of the last Deputy by the suggestion that the farmers of the country as Deputy Gorey has shown, are justified in expecting that the standard of living for the next generation will be higher than the standard of living in the past generation; that the people living upon the produce of the soil, whether tenant proprietors or labourers employed by tenant proprietors will live at a higher level generally in the future than in the past. If that is not to be so then there is very little virtue in the change here in national status. But if that is so, if we have a fair right to expect that the farmers and their families will live on a higher standard than their fathers then there will be, in succeeding revisions of judicial rentals, or there would be, a considerable reduction because there would be so much less available for rental, and one would imagine that with the new conception of the social standards the Commissioners who would be deciding future rentals, if they were to be revised, as under the old system, would take into account, and must take into account, not merely the profits derivable from the soil

and market prices, but also the standards of life which become current, and which were due to the tenant or his labourers who were living upon the produce of the land.

Consequently there would be inevitably a smaller sum available annually for payment for the landlord. That is a reasonable expectation supposing there was no compulsory Purchase Bill and that, I submit, is good ground for looking for a considerable reduction in the amount which is to be paid in annuities, because it will all have to come out of the produce of the soil whether annuities or rental, and it is the balance from it that should be the balance after having provided a reasonable standard of life for those who work the soil, and only that balance, which should be available either for annuity or rental. Then we have to take into consideration also the new situation created by the War. I will take a lesson from Deputy Magennis's lecture, and recognise the facts that are round about us. I will recognise that there has been a war, and I submit that the memory of that fact leads us to this conclusion, not only that the standards of living demanded by the people have been improved and have been raised, but that the expectation of high prices for agricultural produce are not likely to be realised, and that the margin payable to landlords as rental or to the bond holders as annuities will be smaller henceforward than in the past. It is a fair expectation, looking at the future, and taking that expectation into account, the case for a larger reduction than that mentioned in the Bill is a sound one. The Minister told us yesterday that it was quite an easy matter for irresponsible people to make a claim for something higher, no matter how much or how little, than he had found practicable, and because it was easy, there was no need to justify it. There was some force in that. No doubt it is much easier for those who are not responsible to put forward a case, but it is their duty to put forward a case even if it is easier. It is their duty to point out that this imposition upon that very considerable section of the community who are occupiers of the soil, and even that smaller section of the community that will be effected by this Bill are not going to be in as good a position unless at the expense of their comfort,

and at the expense of a reasonable standard of living in the future, to pay this annual sum to those possessing these bonds.

There has been no bargain. The demand that has been made on the part of the tenants is for a greater reduction than that which is offered. The case that is made for a greater reduction is based on the price of land in England, according to the arguments that have been adduced by Deputies Gorey and Wilson. There is a further argument, of reasonable expectation, that the amount available for distribution in the form of interest to bond holders or rentals to landlords will be smaller in the future than in the past. Let us bear in mind that the proposition in this Bill is to secure, for all time for the landlords against almost any risk, a settled income in exchange for what may be a problematical income in the succeeding generation. They are making a good exchange if the Bill passes even with the amendment proposed by Deputy Gorey, a very good exchange for something certain: the backing of the State against something problematical which would depend entirely upon the seasons, upon currency variations and upon the standards of life demanded by workmen and farmers against the general standard of life that exists in the country at present. I maintain that, we have a right to hope and expect that henceforth in this country the margin for unearned income will be smaller in the future than in the past. The landlords, too, do expect that in the future the produce of the country will, in an increasing degree, be absorbed and used by the people who help to make the wealth of the country. They have the right to expect that, and they do expect it. They are not expecting that henceforth the landlord element in the country is going to have as easy a time, or would be likely to have as easy a time, in the future as in the past; they have the right to expect that under a National Government the people who do the work of the country will be the people who will get the benefit of the produce of the country, and with that reasonable expectation they are doing very well if they get 60 per cent. of their net revenue. The amendment proposed by Deputy Gorey is, I think, easily sustainable in discussion, and would be before a tribunal which was not obsessed

[Mr. Johnson.] by the position that landlords have held in the past—by a tribunal that took into account all the facts of to-day and the prospects of the future; any tribunal that took full regard of these prospects and present facts would, I think, conclude that the suggestion embodied in Deputy Gorey's amendment would be very generous compensation, and is the fullest amount the tenant should be reasonably expected to pay. We want that 10 per cent. and 5 per cent. to be paid to the labourers, where there are any.

Mr. WILSON: Hear, hear.

Mr. JOHNSON: We would like the whole 65 per cent. to be made available for improving the standard of life for the labourers, and we are at one with the farmers in this: an alliance between the farmer and the labourer.

Mr. HOGAN: An unholy alliance.

Mr. JOHNSON: It is a holy alliance between those who work and are owners and those who work and are not owners, against those who do not work but draw rents or annuities. That is a holy alliance which, I hope, we shall see consummated and then have, what Deputy Wilson suggests, a real republic of workers.

Mr. HOGAN: I was glad to hear Deputy Gorey's speech, and I assume from it that he will now hand over the interest he draws from his Debenture holdings in railway stock.

Mr. GOREY: I have not got any.

Mr. HOGAN: I shall not be surprised if I find members of the Farmers' Party coming along and making an offering to the State of the interest that I hope they draw from the various companies in which they have their money invested. I have stated my reasons so often for this figure of 65 per cent. that I propose to confine myself strictly to the arguments advanced. Deputy Gorey has saved me a lot of trouble, because he has not put forward one single argument against the figure in the Bill. He started with a great flourish with regard to his figure of 40 per cent. He gave a number of what, I suppose, he would call reasons for that figure, but I suggest that all these reasons would apply equally to reductions of 50, 60, 80 or 100 per cent.,

and his argument would also apply to confiscating the landlords' property. I do not know why he does not advocate that. But he gave no argument, nor did Deputy Johnson, for this 40 per cent. figure, and I am still waiting for their arguments on that. It is true that on the 40 per cent. figure Deputy Wilson came to the rescue, and I must say he was extremely flattering to myself. He pointed out that the effect of this Bill was to place a tenant, whose rent was £100, and whose Poor Law Valuation would be about £120, that is to say a man with about 200 acres of fairly good land, at an advantage. The tenant is in such a magnificent position that he only loses £200 as a result of not having purchased under the 1903 Act. Notwithstanding that he has been twenty years paying rent—

Mr. GOREY: Not twenty years.

Mr. HOGAN: Make the time anything you like. But this farmer owning 200 acres of good land, rent £100, Poor Law Valuation £130 or £150, finds that the only disadvantage he is at, as a result of not having purchased for such a long period, is a loss of £200. I accept that position; if I have really succeeded in rescuing all the tenants of Ireland to such a large extent from the loss that they suffered by non-purchase, then I am on the point of making up my mind to go ahead. Having made such a magnificent success of this, certainly we ought now tackle the 400,000 tenants who did purchase under the 1903 Act and compensate them in the same way for not having purchased in 1885—

Mr. GOREY: That proves nothing at all. That is not an argument.

Mr. HOGAN: The farmer who owns a holding of 150 valuation and who has 200 acres of good land—

Mr. GOREY: With £100 rent.

Mr. HOGAN: I am quoting a member of your own Party. If I can put this farmer in the position that he has only lost £200, in spite of the fact that he has not purchased under the 1903 Act, and in spite of the fact that he is purchasing now when we cannot borrow money on anything like the same terms as a result of the war—having done that I am tempted to go ahead and tackle this

problem of the 400,000 tenants who purchased under the 1903 Act and make up their losses because they did not purchase in 1885. In any event, I want to say that I am quite satisfied with Deputy Wilson's figures. If I have saved his particular friend all he has lost except £200 I am satisfied that I have done a very good day's work. That was really the only argument put forward in favour of the forty per cent. All the other arguments would apply equally to fifty, sixty, eighty or one hundred per cent.

We are acquiring property compulsorily. Does Deputy Gorey suggest that we ought to give a price for it which is less than two-thirds of its current value? Deputy Gorey does not hold the same views about property as Deputy Johnson, and I want to try and split this alliance. We are acquiring property compulsorily, and I would like to hear from Deputy Gorey whether he is prepared to subscribe to the principle that we should so acquire it at less than two-thirds of its current value.

Mr. GOREY: Who had the fixing of the current value?

Mr. HOGAN: The current value has been fixed by law for a period of over thirty years and has not shared in the inflation of prices due to the war. Let Deputy Gorey take his courage in his hands and enunciate that theory. Remember that we are acquiring not only landlords' property under this Bill, but we are acquiring tenants' property. We are acquiring future tenancies—men who can be put out on six months' notice—men who might have taken their lands two years ago, who have no title to them at all, but who at the same time we are allowing to purchase. Suppose we find we have to resume a number of tenanted holdings and future tenancies in respect of which no improvements were done, will we acquire them at fourteen years' or sixteen years' purchase?

Mr. GOREY: I suggest that you buy the landlords' interest at the figure you mention and then you proceed to buy the tenants' interest.

Mr. HOGAN: I am talking of buying the tenants' interest in a future tenancy.

You have the case of untenanted land farmed by the landlord, and, remember, the landlord may be another tenant in this case—perhaps a man who has far less land than Deputy Gorey, perhaps fifty or a hundred acres. He may have let thirty acres of it as a future tenancy, four, or five, or ten years ago.

Mr. GOREY: What does all this prove?

Mr. HOGAN: We are acquiring, let us say, a future tenancy now. What price will we give for it? If we are acquiring any other tenancy, what price shall we give for it—what number of years' purchase? What is sauce for the goose is sauce for the gander.

Mr. GOREY: On a point of explanation, perhaps the Minister would tell us whether there is such a thing as tenant proprietorship or tenant interest at all.

Mr. HOGAN: I am saying there is a tenant interest. What is that future tenant's interest—the interest of a man who had never to put up any buildings, who probably never did any improvements, who was making a big profit out of the land during the war, and who has no legal interest, and very little moral interest, in it. We may have to acquire those lands for the relief of congestion. What price would we give for them? That is what I want to know. The landlord, in such a case, has a bigger interest than the tenant, if anything. It was, perhaps, untenanted lands fifteen years ago. He let it for temporary convenience at the request of the tenant. The tenant took it to suit his own convenience. He has no tenure there. The landlord's interest, if anything, is greater. I am not talking of present or judicial tenancies. I am talking of future tenancies, of which there are many. Deputy Gorey wants us to acquire the landlord's interest at a certain number of years' purchase—I have not been able to discover whether it is fifteen years, or fourteen years, or twelve years, because his arguments apply equally to all. What I want to know is what are we going to give for the tenant's interest.

Mr. GOREY: We will deal with that when it arises. We are beginning to know where the boot pinches now.

Mr. HOGAN: I agree with the Deputy that this is where the boot pinches. People cannot have it both ways. If the Deputy likes to come forward on this, the first occasion when the Free State is acquiring property compulsorily, and, regardless of the fact that the property has been a well-recognised security in the past, and that banking and charitable institutions, and stock-brokers and all sorts of people, are interested in it, suggests terms which cut into the security value of the property, just in order to make a temporary profit, let him do so; but he cannot have it both ways. If that is to be the rule in regard to this sort of property, it will be the rule in regard to future tenancies. When the State wants property in future, it will have to take it at considerably less than two-thirds of its current value.

Mr. GOREY: The Minister has asked for figures as between these and previous purchase figures.

Mr. HOGAN: I asked you to justify the 40 per cent.

Mr. GOREY: To come to the first term tenancies under the 1903 Act, we know from the Blue Book figures that the average reduction was just thirty per cent. What the tenant got on an average in the 26 counties was a little short of thirty per cent. By purchasing under that Act in 1909, he would be now purchased for 14 years. On £100 rental, that thirty per cent. for 14 years would be £420. If he bought immediately on the passing of the 1903 Act, he would be purchased now for 20 years, and that would mean £600.

Take the average percentage for a second-term rental under the 1903 Act, at a little less than 24, and multiply 24 by 14 and you get £336. If he bought immediately after the passing of the Act it would be £480. What is £600 now worth to the man who bought under the 1903 Act a first-term rental? He would have a capital sum of £600, and that would be worth £30 at any time. If he did not buy until 1909, when the operations of the Act ended, he could not have less than £420 under a first term tenancy. If he purchased second term, he could not have a lesser sum than £336, and could not have more than £480. How do those figures compare with the case of the man who did not

purchase at all? He has paid in the meantime £600 in one case, £480 in another, or £420 in one case and £336 in another. We are asking that you put those on equality. Will 40 per cent. put them in a position of equality?

Mr. HOGAN: It would take about 60 per cent. on your figures, and 50 per cent. on Deputy Wilson's.

Mr. GOREY: If you can contradict those figures, well and good. If we put the present man on the same level, regardless of the number of years as between him and the man who purchased 20 years ago, we would have 33 per cent. in the case of the second term man added to the present price offered under the Bill. You cannot put them on the same level short of confiscation. We do not want confiscation. Neither 40 per cent. nor 50 per cent. would be just. We have suggested the lowest figure that we could reasonably ask. We did not think for a moment we were asking too much.

We suggested 40 per cent. because we thought we would have a chance of that figure being accepted by the Government. If we put up 50 per cent. we knew it would be turned down; we put up 40 per cent. in the hope of its being accepted, and we see no reason why it should not be. The amount was made lower than it really should be, so as to make it possible for the Government to do what is right. The great argument in favour of the present price to a landlord is that his estate is encumbered—that many landlords' estates are encumbered, that the rentals are encumbered and other charges have to be met, and that vested interests have grown up that require to be protected. That may be true, but we want to know the facts. There is something between £1,000,000 and £800,000 rental. We want to be sure we are dealing out justice. We want to know how much of that £800,000 or the £1,000,000 is encumbered. How much of this philanthropy, this effort to preserve the public credit, is at stake? How much of this rental is encumbered and how much is not? Are we giving away £45,000 or £50,000 a year as a bonus where, perhaps, 10 or 12 millions would be sufficient? We have not had any figures. If the landlords' case or the Government's case is good we should have those

figures. This matter should not be done on assumptions or presumptions. We should also know how much these charitable and banking institutions have advanced, and what rate it bears to the rental. 'How much is advanced in proportion to each rental?' If we had these particulars perhaps we might be able to do justice. I do not want to go into figures. I have always heard that figures can prove anything. Figures in the hands of experts who could juggle with them could prove anything. I try to avoid figures as much as I can, especially in this Assembly. The whole argument in favour of this price is based on justice. We owe justice to every member of the human family. The question of what the people require now and will require in future has been dealt with by Deputy Wilson and others, and there is no occasion to travel over the same ground. The human family in the future will require a higher standard than in the past, and it is time they had it. More than two-thirds of the human family in this country have not a standard as good as an average animal in England.

Mr. DAVIN: Or in Ireland.

Mr. GOREY: Or perhaps in Ireland—I quite agree. They certainly have not. They have not as good a house, they have not as good a floor, and they scarcely have as good a bed. It is very doubtful if they have as good food. They certainly have not such abundance of food to meet the requirements of the human being as the animal. The animal is very much better treated than the human being. If this was based on justice it should be based on the profit derived from the use of the land. If you are not able to approach it from that point of view you should leave out the word justice, and deal with it from some other standpoint.

Mr. HOGAN: What about the price of these tenancies I asked about?

Mr. GOREY: A Leas-Chinn Comhairle—will you try and control the Minister? He does not like this at all. With regard to the price that ought to be paid for the land to the different interests I would point out that while there is only one interest in England there are two interests in this country. I would be the

last to put money into land at the present price that is being paid for tenant's interest. It is ridiculously high; it is madness. It has been madness to pay such a price since the war. I have always held and expressed that view, and I am not going to recant now. But in buying Irish land from the fee-simple up you buy the landlord's interest and the tenant's interest. If you acquire tenanted land the landlord's interest has probably been bought under some previous Bill. You should pay for the tenant's interest at some reasonable rate, not an extravagant or a wild rate—not the rate obtaining at present—but something in proportion to what you are depriving him of.

Mr. HOGAN: Twelve years' purchase.

Mr. GOREY: That will be a question for future Governments. If you are going to deprive a man of his living you ought at least to compensate him for it. This Bill is not based on justice. I contend that the word justice does not apply to it at all. It is based on the balance sheets and the incomes of vested interests. Those interests have to be met according to this Bill—and probably according to the great forces behind it—as near one hundred per cent. as possible—as near at least as figures can go, and they can go a long way. Why is it that large farmers for the last three years have lost money in agriculture? There is no doubt that they have lost money. They have lost it because there were no profits to be made out of the land after paying the labour bill.

Mr. DAVIN: They do not work themselves.

Mr. GOREY: There is an Agricultural Commission sitting, and you can go there and bring all your witnesses from all over the country, and prove otherwise if you can. That is your answer. Farming is run at a loss by the bigger men. Why is the small farmer able to exist? Because of his intensive efforts, and of the low standard of comfort that he is content with; because of his natural craving for independence, and because he is satisfied to be under-fed and under-clothed in order to have that independence. If it were not for the intensive efforts of the small farmer and his family they

[Mr. Gorey.] could not exist at all. Not alone is the small farmer doing his duty to the State, but he is doing the duty of three men. Other elements in this country are able to live doing nothing, because of the efforts of the men who work. I saw in the country on Saturday evening last men going home to their supper at 8.30 in the evening (old time), after which they came back and worked until ten o'clock. I know these men are out from 5.30 or 6 o'clock in the morning. That is the sort of thing that makes existence possible—it is not possible without slaving.

Mr. WILSON: Our proposal boiled down into figures means that we intend that the capital sum which should be paid to the landlord would be £1,263 plus 10 per cent. contribution, which would bring him in all £1,389, or 62.5 per cent. of his rental based on the revenues and securities of the Free State. I think that is a fair proposition. If I were a landlord I would take £62 10s. 0d. safely secured, rather than a nebulous £100. I believe the landlord would be doing a good thing for himself. When we ask for the 40 per cent. reduction, we are not alone trying to do justice to the landlord, but are trying to uphold the security of the State. We are just as much concerned about the welfare, safety, and credit of the State as any of the Ministers. We do not want confiscation or spoliation. We are offering 62.5 out of a suppositious £100 that will not probably eventuate.

Mr. MILROY: I want to ask Deputy Gorey a question, and I hope I will get a straight answer. If we were selling two or three hundred acres of his holding would the price he would ask be less or more than that which the Bill provides for the unpurchased tenants?

Mr. GOREY: In other words, would the Deputy sell his clothes for less than he paid for them?

Mr. MILROY: I would like to press for an answer. If the Deputy was willing to sell any of his present holding would he ask for a lesser or a greater price than that which the Bill provides for the present unpurchased tenants to buy their land?

Mr. JOHNSON: The question that has been put by Deputy Milroy was the same question that was raised by the

Minister for Agriculture, and I want to find out whether Deputy Milroy or the Minister for Agriculture makes any distinction between these two things that are talked about—these two properties. Do they contend that when they are buying the right from the tenant to work certain lands that they are buying the same thing, or anything like the same thing, as when they are buying the right of the landlord, not to work the land, but to draw rent from the land?

Mr. GOREY: Deputy Milroy does not want that at all. That is not what he is sent here for.

Mr. MILROY: On a point of order, I think it is about time for whoever is responsible for the regulation of this assembly to take steps to control this peculiar Deputy who thinks that he has a licence to insult any member of this Assembly. He has made an observation which I will ask you to ask him to withdraw.

AN LEAS-CHEANN COMHAIRLE: I will ask the Deputy first to withdraw the word "peculiar."

Mr. MILROY: Did I use the word "peculiar"?

AN LEAS-CHEANN COMHAIRLE: I ask you to withdraw it.

Mr. MILROY: Suppose I substitute "fantastic." I will withdraw the other word.

Mr. GOREY: I think there is a good deal of justice in what Deputy Milroy says. I am peculiar.

AN LEAS-CHEANN COMHAIRLE: Deputy Gorey or any other Deputy should not cast a reflection on other Deputies, and any Deputy who does so must withdraw the insinuation. Deputy Gorey has suggested that Deputy Milroy came here for unworthy motives. It is not fair to make an insinuation of that sort, and I will ask Deputy Gorey to withdraw that expression.

Mr. GOREY: I quite agree. I should not have said it and I apologise.

Mr. JOHNSON: I am anxious that the Dáil should be made acquainted with the views of Deputy Milroy and of the Minister for Agriculture in regard to

these two things that are being purchased or referred to as purchasable. The Minister for Agriculture made it quite clear in introducing this Bill that what was proposed to be purchased was a rental, not the land. It has been generally conceded in the discussions that it was the legal right to draw rent that was being purchased. Is it contended that that is the same thing as the tenants' interest, the tenants' interest being the right to occupy and work that land? I submit there is a very great distinction. You cannot and ought not to treat these two things as though they were parallel, and try to put posers to Deputy Gorey or Deputy Wilson or any other person, in regard to their right to work their land as contrasted with the landlords' right to extract rent from the land. While this may be an academic question it goes right to the heart of this Bill and the proposals in it. It is the right to extract rent which is supposed to be purchased and that may be of very little value in 10, 20 or 30 years' time. As Deputy Wilson said the future value is quite nebulous, and in two or three years' time it may not exist at all. According to some of the statements that are put into the Press the country is going to the dogs and there is not going to be any value at all in the landlord's interest. I ask the Minister for Agriculture if he lays it down that there is no difference in the kind of property that is under consideration—the property of the tenant occupier, the proprietor who works the land and the property which is merely the legal right to draw rent?

Mr. HOGAN: The Deputy wants to know whether the right to draw rent is the same as the right of the tenant who works the land, or whether it is more or less. It depends on the nature of the tenancy. If a small tenant lets five acres of his land to a conacre tenant for a year, the right of the tenant at the same time is much greater than the right of the man who takes the conacre, even though this man does the work, and is worth more money. On the other hand the right of a present tenant is undoubtedly more valuable than the right of the landlord. The right of a future tenant is a totally different matter. It was the right of a future tenant I was discussing with Deputy Gorey.

Mr. SEARS: We have had a very interesting discussion this evening, and we on this side have watched the progress of the allies. We heard Deputy Gorey advance principles that were applauded more vehemently on the labour benches than any other principles I heard applauded in the Dáil. Then as a kind of return Deputy Johnson pressed the farmers' interests by advancing arguments that were of the most capitalistic colour. They were at once accepted, and there were gracious bows exchanged between the two parties. They have changed places. If you closed your eyes you would think that what Deputy Johnson was saying was what he should have allowed Deputy Gorey to say, and all that Deputy Gorey should say was put forward by Deputy Johnson in his usual clear and precise style. I am afraid you will see these arguments flung back again with scorn from one side to the other later on. After what we heard about what 9s. a week means to the poor farmer we will be told how much more it means to the poor worker. We also heard about these poor men who are living in bad houses, and who are getting worse feeding than cattle. The debate was very fair and legitimate as a debate. I would not say one word here in favour of encumbered landlords. I felt an echo in my heart for everything that Deputy Gorey said about these gentlemen who piled up big debts on Irish estates, and squandered the money. I have no sympathy for that sort of thing, nor has any man in the Dáil, but what we have to remember is that this is the heel end to a big question, and that it is settling up what was commenced in former Land Acts, and in particular the Act of 1903. Let us do the decent thing, and get this question out of the way. We are not saying that there is justice in giving all this to the landlords. The landlords are there, and as the other landlords got something the present ones should also get something. They are not getting too much, considering all the interests involved. I am sorry that the farmer is not faring better, though the landlord is only getting £1,500 compared to £2,500 that could be got under the 1903 Act. That does not represent a corresponding advantage for the tenant. This Bill, considering all things, is a very fair and reasonable Bill, and being so I ask the Dáil to keep that in mind. It is

[Mr. Sears.]

a bargain, an approximation. Deputy Gorey spoke of very real things when he spoke of the small farmer, and the small holding where all the family work, where they start at an early hour in the morning and finish at a late hour in the evening, and whose living is on a very low standard. By such means they carry on. It is in the interests of such men this Bill is introduced, and that the Dáil should pass it. This particular Bill is part and parcel of a certain policy, and the spokesman of that policy made it possible, and say it is the best thing that could be done as a bargain between all interests. The Bill is offered as a fair thing, and gives an opening and a chance in the future to the small man. Do some justice to those who are clearing it. This is your Bill and your bargain, and do not try to upset it, and take the best part of it away. Do not smash the Bill, and do not smash the whole thing. I have sympathy with all those points brought forward, but the fact that it is a bargain must be borne in mind. We have to take the good and the bad. We have to swallow the whole lot as it is.

Mr. LYONS: I was more than pleased to hear the remarks of the last Deputy when he referred to the union that has been created here between the Farmers' Party and the Labourers' Party. I hope in the interests of the country that that unity will continue amongst us. I can, as a Labour man, assure the Dáil it will not be the fault of the Labour Party if a unity like that is broken.

Mr. CORISH: Send him down to Waterford.

Mr. GOREY: Come over here to these benches.

Mr. LYONS: I want to support this amendment, and not simply because it is put forward by Deputy Gorey. If the same amendment is put forward by any of the members in the Government benches I am sure that the Saorstát will rise in the morning and see in the Press where the Labour Party threw in their lot with the Government for this particular amendment. I think it is really necessary that this amendment should be accepted. For surely 60 per cent. is quite enough to give the landlords. Before this Bill was introduced, there were in the country some very large holders of land, who had actually adver-

tised their land for sale. But when they read the terms of the Bill and found they were getting 65 per cent. they removed the posters and said they would wait until the Bill goes through, "Because" said they, "we would not get so much at the auction." Deputy Gorey spoke of the men in an impoverished state, and he also mentioned the amount of good that those particular landlords have done to the country, and the amount of employment they gave on the land and the amount of improvements they carried out while the land was in their possession. That reminds me of a little story I read in a book some years ago. It happened somewhere down in Waterford where a poor man went to a large landowner who owned something like 1,600 or 1,700 acres. The tenant thought to get into the good graces of the landlord and lay down at the hall door and started to eat the grass. The landlord came out and said "my poor man what is the matter with you?" And the tenant replied "I am impoverished and destitute." The landlord said to him "get round to the back of the house, the grass is much finer and sweeter there." These are the men to whom the Saorstát are now asked to give a rent that will cripple the future tenants or the tenants who are already in occupation. I certainly support this amendment not for the interest of the big farmer, the man with the £200 valuation, but for the small man, the man who possibly cannot afford to pay. Furthermore, I think that when we take into account particularly the two classes of farms taking the fee simple holding, say, of a £30 valuation, and take another farm of the same valuation that carries a rent of £12 a year, I think something more should be done for that man who is paying £12 a year, than for the man who is a freeholder more or less. That is why I support this amendment. Deputy Wilson was large in his remarks; He maintained that £200 will be lost by the tenant who will buy under this Act. That £200 will be lost by him. That was gained by the tenant who purchased under the 1903 Act. The Minister for Agriculture wants to know if Deputy Gorey or any citizen had money invested would they hand over the whole sum raised through that money being invested. I think that was a wrong remark thrown at Deputy Gorey and Deputy Wilson. I am not quite

sure that the money they had invested was money they earned, but the money you give to the landlord has not been earned by him. They have not done anything in this country to deserve the amount of fairplay given under this particular Clause. I think it is high time that we asked those landlords to hand over to the original owners the land that belongs to the people of Ireland. The land of Ireland has been long enough in the hands of a few. I am sure that the Minister for Agriculture will try the influences he has, when this amendment of Deputy Gorey's will be put to a vote. I am sure notwithstanding the words that have been said in the previous speeches about the Minister for Agriculture throughout the country that he was the only man that could succeed in getting a Bill that could satisfy everybody, that it will be said to-morrow that he got that Bill to satisfy the landlords and that he had no interest in the tenants.

Mr. DOYLE: I support the amendment, and I believe myself that the Minister and Government ought to accept it—for State reasons alone. It has been debated from every point of view except from one, and that is the tenant's. The tenant should not be compelled to pay any higher rate than 60 per cent. of his present rent. At the present state of Agriculture, and the state it has been in for the last three or four years, it is impossible to pay any more. Agriculture has been losing for the last three or four years and everybody engaged in agriculture knows that thoroughly well. How then is a farmer to pay an impossible annuity? I consider that the State will be well advised in making his annuity as low as it possibly can. For this reason—that they will leave him in a position of being able to pay his annuity, and pay his rates and taxes. If they put too big an imposition on him, if they put too high an annuity on him, it will leave him in a condition that he will not be able to meet any of his engagements whatsoever. You know when the 1903 Act was passed, things were very different. Things were very different with regard to the men engaged in agriculture at the time. The cost of production at that time was very little—not more than one third of what it

is at present. And then he came along for a number of years at that cost of production. He got a reasonable profit in those particular years. Then the Minister talked about inflated prices. He said nothing was to be had in those years. If he looks at this inflation from a tenant's point of view he will see that the latter had to pay more for every hand's turn he got done on his farm, and so the inflation was not as large as the Minister thinks. There was also inflation on his purchases. The farmer had to pay for any farm implements he purchased during those years four times as much as when the 1903 Act was passed for everything was dear in comparison with then. The inflation of his prices was brought down by the inflation of the purchases he had to make, and this is not a matter which is being taken into consideration at all. I say that the State and Government should try and leave that annuity as low as they possibly can so as to give the tenant purchaser a chance to pay his annuity, his outgoings, and his rates and taxes. If those things are not paid, that is the annuities, rates and taxes, the country will go bankrupt, and I say to the State and the Minister to accept the lowest annuity they can.

The PRESIDENT: Yesterday we were told that there were something like 70,000 tenants, and a rental in the neighbourhood of £800,000 a year. According to that a very large proportion of the persons affected by this Bill would be paying a rental of £10 a year. Now, under the Bill the sum for which they would be liable is this: a person who had to pay a rent of £10 a year would pay £6 10s., and the proposal is to reduce it to £6. We are told from one side of the Dáil that the difference between £6 and £6 10s. will compensate for what is regarded as the normal standard type of life, and put the tenant in the position to enjoy all the advantages of a higher standard. I am in some difficulties to know how this is to be done on 10s. a year. We are told from the other side that this 10s. a year spelt bankruptcy. I have never come across a case in which 10s. a year made a man bankrupt. The Deputies may know of such a case, and in justice to the Dáil they should tell us. There is one order we must admit, in connection with this Bill not repre-

[The President.]
 sented here. The landlords have no representatives here. The Deputies have an excellent opportunity of pillorying the Government, and saying "you are fine specimens, and you are defenders of this Order that ought to be exterminated."

LABOUR DEPUTIES: No.

The PRESIDENT: Oh yes, you are in that position. You are able to say that. But we have got to strike a fair and even balance. We were not able to strike it in this case, and Deputies know it well. In the one case all that could be afforded was something like 13½ years' purchase. If one mentioned that in 1903 what would be said?

Mr. GOREY: It would be the same price if you got the money at 2½ per cent.

AN LEAS-CHEANN COMHAIRLE: Order, you cannot interrupt.

The PRESIDENT: We have bolstered up that at the cost of the State. I may tell the Dáil that it was only after a very long and careful consideration that I even considered the question of bolstering up that contribution by reason of the fact of the condition of our finances. This particular order that has got no representation here at all has got to have something said for its side of the case. Deputies say it has none. If you say it has none, why then do you give it 60 per cent.? No honest man would stand up and say give them 60 per cent. if he thought that. He should say "give them nothing."

If you presume to give them anything at all you ought to give them what is fair. If we are prepared to give them what is fair then we ought to consider it on a fair basis, and consider how it will effect one and the other. We cannot get an acceptance from those concerned of a 60 per cent. payment of the former rental. We are then faced with the position that there are citizens of this State who are entitled to ask that the machinery of the State be put in motion, and Deputies know what that means. You can if you like at a particular time pass this Bill over the head of the Seanad. You may now—but I doubt it. It will be held up for nine months, and meanwhile the machinery of the State must operate. Suppose it is held up for nine months.

How many tenants will be deprived of what you are trying to save them now?

Mr. GOREY: I wish to God it were held up.

The PRESIDENT: You know well it cannot be done, and it is well known that it may not be done.

Mr. GOREY: I hope it will be held up. They will get an opportunity of holding it up.

The PRESIDENT: Well then you are going to justify the holding up of the machinery of the State. The citizen has his rights. Are you going to deprive him of them without having the law to back you?

Mr. GOREY: We will have the law at the next election.

The PRESIDENT: If it be elections that are mentioned it is a new matter. We can deal with that. This is the first time a question of this kind was mentioned in this Dáil. I thought that every member brought in what he could of ability which he contributed towards the solution of urgent, public matters regardless of whether or not he should be returned at the next Election. I may tell the Deputies that there is not any one on those benches here who cares about being in public life. They are here for the country. The majority of the members of this party want to get out. We can only keep them in by the greatest possible persuasion. We keep them in for one reason, and the Deputy knows that reason. You can dissolve this party to-morrow but will the Deputy deal with the difficult situation we are faced with?

Mr. GOREY: If the time comes, we will.

The PRESIDENT: If that be the case we are willing at any moment to give you an opportunity. It is not for love of office we are staying here. It is for one purpose we got into this thing for the last 6 or 7 years, and certainly it was not our intention at the beginning that public life would be the sport of any parties. I think it will be admitted that Deputies on this side have suffered, and lost a great deal. The real question here is what can you do in justice? You cannot maintain in justice that 10s. difference in a £10 rental is going to bankrupt you,

and can it be proved that 10s. a year is going to give a man a higher standard of living.

One case put forward was that the landlords were getting security. Take care whether they are getting security or not. Take care what will be the value of the particular security. Take care how much it may affect very important interests in the State, in which the Deputy's interests are just as much bound up as those of the landlord, and perhaps more so, because I do not believe that there is any larger interest in the country than the agricultural interest. Take care that the industrial, banking and other interests are not lessened in amount, lessened in value, lessened in importance, for upon the security of these depends, to a very great extent, the value of the country's agricultural industry. It was stated that they would get security. I would like to know from the Deputies if we were in a position to say to-morrow, so far as labour is concerned, that they should have a forty per cent. reduction on the rather nebulous incomes that they have derived for some years and that we guarantee them that, would it be accepted?

Mr. JOHNSON: Tempt us.

The PRESIDENT: This has not been put forward in that way. If Deputies would put forward that, I am inclined to think that a great many of the important industrial interests of the country would accept it, and I am inclined to think that a great many supporters of the Deputies opposite, whom they represent, would not be agreeable to that proposition. Deputies might say "yes," but the men themselves might say "no." Forty per cent. is a very considerable reduction in income in the case of many of these estates. I do not know to what extent they are encumbered. I have been informed that there have been considerable mortgages in certain cases, and I do not think that the Deputy was wise in criticising charitable organisations which had certain mortgages on them. Certainly one must look for some security. Formerly, practically the entire security in a country was in its landed property, its landed estates. That has passed away; the world has changed; the value that formerly affected landed estates has passed away and other securities have been substituted such as War Loan, or things of that sort. People

might criticise these charitable organisations, but they were perfectly entitled and justified in taking these mortgages and you are not justified in reducing their value. After all, it may be very much of an accident that Deputy Gorey has a pretty considerable farm and that a man beside him has a very small farm. The time may come when that man may think that that farm is too much for one man and he may attempt to get a slice off it, and other men may come along and take parts of it, and the Deputy might find himself in the position of a small farmer. If the majority of the people of the country are very poor----

Mr. GOREY: That argument is no good.

The PRESIDENT: Perhaps not. I am sure it would take a good deal to assure the Deputy of the danger of it, but the danger is there. Now, I have put it to the Deputies that this is a case for common justice. We approached it from that angle entirely. It would have been a very popular thing for us to have put down the 40 per cent. reduction. It would perhaps have involved the State in consequences in which we did not think we were justified in involving it. From all the information that we have been able to gain we are satisfied that the Bill as it stands is accepted in good faith by the people, who are just in their decisions in such matters. There is nothing in it to commend it to them but common justice, and it is in that spirit that we are putting it forward.

Mr. DAVIN: I regret that some of the things mentioned by the President were introduced, because I think they have no bearing whatsoever upon the conduct of this debate so far as we are concerned. If one were to take his speech seriously, one would be led to believe that the whole foundation of the State was trembling in the balance and affected altogether by the landlords' consideration, so far as this Bill was concerned. We were told by the Minister for Agriculture himself that this question is really a simple one because of the small acreage involved, because of the very small number of unpurchased tenants, and because of the very small number of landlords who would be concerned by the Bill, compared with those who had already purchased and settled under previous Acts. There-

[Mr. Davin.]

fore, the matter cannot really be so serious for the State as the Minister for Finance asks us to believe, Deputy Sears taunted Deputies on this side of the Dáil with the unity existing in this matter between the Farmers' Party and ourselves regarding a matter which, I think, concerns the agricultural workers and the small tenant farmers. If that unity—and I say this seriously—is any indication of a greater spirit of co-operation between the two being set up I welcome it most heartily, and, as far as we are concerned, we will do nothing that will impair or break it. The whole thing boils down to what is considered a fair price. In this matter it is very hard to find out who could be the best judge. The Minister for Finance said that the landlords have no representation here, and that therefore they are not able to put up any good case in defence of the attitude adopted by Deputy Gorey and his followers. I am sure that the landlords' side of the case is very well known to the Minister for Agriculture because of the many conferences that he has had with their representatives.

Mr. HOGAN, Quite true.

Mr. DAVIN: Well then, I take it that the Minister for Agriculture is the defendant on behalf of the landlords on that particular point.

Mr. HOGAN: On a point of order, how does the Deputy deduce that from the fact that I happen to know the landlords' side of the case as they put it up to me? I did meet the landlords. I met the unpurchased tenants often. Is it because I met the landlords and heard their side of the case —

Mr. DAVIN: Is that a point of order?

Mr. HOGAN: That I am the defender of their side of the case here?

AN LEAS-CHEANN-COMHAIRLE:

It is a point of personal explanation more than a point of order.

Mr. DAVIN: Deputy Sears seemed to think that because the landlords of the larger and different class voluntarily agreed to sell under the 1903 Act, the landlords who have held out against any of the previous Acts are entitled to the same consideration. I may be pardoned for making the distinction between the

two classes, and the distinction to me appears to be this, that the landlords who sold under the 1903 Act, or previous Acts, were people who were inspired with some national outlook, with some consideration for the other side, and who made what they considered to be a fair bargain. That class of landlord generally is a landlord who has lived and spent his money within the country and put it in circulation within the country. On the other hand, the landlord who has held out against any previous Act, and who has now been compelled to sell, is the landlord who has drawn rent out of a small number of unpurchased tenants and who has spent the money outside this State. That is a different matter altogether, and to me, at any rate, there is quite a difference between the two classes of landlords. I look upon any person, whether he be a landed proprietor or otherwise, as patriotic in the sense that whatever money he derives, by rent or by other means, he spends within the State. That type of man is a patriotic citizen whether he be a landlord or a worker, and he is the man who keeps this or any other State going.

My concern in regard to the question of price is mostly with the person who has lost the most during the past two or three admittedly very bad years. Deputy Gorey has pleaded very well on behalf of that particular class and the small tenant farmer who, it has been admitted, has been very badly hit because of circumstances over which he has had no control, and who is called upon to pay a price out of the labour of his family, although he has no control over the prices of the produce which he helps to grow. I think that is a very unfair thing so far as the man who helps to produce the food of the country is concerned, and I think that should be taken into consideration.

The Minister for Local Government seems to be amused at some of these statements, and the Bill has been defended by the Minister for Agriculture and the Front Bench in a very amusing way. They apparently believe there is nothing in anything put up except by themselves. Deputy Sears went very far when he said that the people who are responsible for this Bill are the people who are responsible for making it possible for the Dáil to meet and to bring forward the first Irish Land Bill. Let me ask him whether he thinks that

the people who are sitting with him on that side of the Dáil are the only people who made it possible for us to meet in the Dáil. The small tenant farmer and the working classes have taken their share of the sacrifices that have made it possible for us to meet here just as much as those of whom Deputy Sears speaks. It appears to me he is inclined to give no credit except to that particular class. I put to the Minister for Finance a fair question which I think has some bearing on the aspect of the case which even he himself put up. Would he be prepared to offer to the labourers of this country 60 per cent. of their present wages while they did no work? That is what he is giving to the landlords who held out against previous Acts, and to whom he is offering this under the terms of this Bill. I ask him that in all fairness, seeing the attitude he has adopted and the case he has put up for the people who have never done any work so far as this country is concerned.

Mr. GOREY: I have reserved some little facts and figures for the last. The Minister for Finance has inspired me with them. I know that the Minister for Finance knows a little about finance. He is a business man, and business was his object in life until he started politics, and his view point ought to be the view point of a business man. I know a little, too, about Land Purchase from its business aspect. Since 1919 and 1920, when money was in the country, twelve estates were sold in my county, voluntary sales between landlords and tenants, and the terms were arrived at by agreement at a round table at which I sat, and all those sales were carried out under a cash transaction. The average price was between 11 and 12½ years for cash. The Minister for Finance talks about 100 per cent. of the landlord's income. If he was a landlord and knew anything about property, or landlordism, or the collection of rents, or even the history of the recent Acts, he would know that that 100 per cent. was never received by any landlord. He would know that he had the cost of collection, that there were legal expenses and other charges incidental to the collection of the rents that could not be got away from. If he read up the report of the Convention held at Trinity College, he would know that the net income of the landlord at that time was voluntarily

agreed on as 75 per cent. of his income. That is 25 per cent. gone west, and that he never had. He would have 75 per cent. of his income—if he could collect it. He, as a man who owned a property, got as much as he could collect; he had to meet bad years and good years, and got what he could collect, and no more. What was the average collection of many of the Estate Offices in this city? Go back before the fat years of war and tell us what was the average collection on £1,000. How much of that was collected? I challenge the Minister to get these figures for me.

The PRESIDENT: I thought the Deputy was going to give me information, but it appears he is asking for it.

Mr. GOREY: I am giving him the information, and I challenge him to contradict my figures. What was the average collection? According to the Convention Report it was 75 per cent., if he could collect it. How much did he collect in the forties, the fifties, the eighties and the nineties, and even in the tens of this century? Did he collect 75 per cent.? Nothing of the sort; he was entitled to that if he could get it, but he never got it. There were circumstances in every case which made it impossible for him to get it. Deputies smile. I want to tell them that this is not a joke, and it was not a joke when one and a half year's rent had to be forgiven. Deputy Hughes knows nothing about it.

Mr. HUGHES: Apparently no one knows anything about it except Deputy Gorey.

Mr. GOREY: Deputy Hughes knows more about trade.

AN LEAS-CHEANN COMHAIRLE: It would be better if these interruptions would not take place. The Deputy has spoken three times already. The first time fourteen minutes, the second time thirteen minutes, and he must be short now.

Mr. GOREY: The President has spoken of extermination. There is no question of extermination at all; it is a question of offering these landlords a fair business proposition. There is £75, if he can collect it, but there is always a considerable element of doubt about that collection, and about how much of it he

[Mr. Gorey.] can collect. How much would any sensible business man, the President, for instance, accept as an absolute certainty for that sum of considerable uncertainty?

THE PRESIDENT: The Deputy has paid rent himself; if he tells us how much he has paid on £100, I will accept that.

AN CEANN-COMHAIRLE at this stage resumed the Chair.

MR. GOREY: How much I paid on £100? I owe a few years' rent at present, and my father owed more before I came along. Perhaps some of the Deputies would call him dishonest or immoral, but it never troubled his conscience. I asked the President a question, and he has not answered me. What would he take as a fair equivalent for seventy-five years, an absolutely gilt-edged security, for a security of considerable uncertainty? What would he or any sensible business man take? The landlords in my county agreed to take twelve and a half years' purchase. They agreed to take less than 60 per cent., and they thought they were doing good business; and here we are met by talk of confiscation and extermination when we make a lesser demand. But the men who had property to sell, and did sell it voluntarily within the last three years, were sensible men and knew their business, and knew what certainty was as against uncertainty. There is no use in coming here and talking about extermination and confiscation, and indulging in the histrionics we have heard about the unfortunate landlord. The speech of Deputy Sears a few minutes ago was witty, and there was no malice in it; but if you take the wit out of it there was nothing left. This is a question I think the President, as a business man, or any other business man in the Dáil, ought to answer—how much as a fair proposition would he take for £75 when his chance of recovering it would be very remote? How much as a bulk sum would he take? Would he take £60 or £55? If he was a business man he would, and he would not grumble about it.

MR. HOGAN: I really did not think it was worth my while to rise to answer the points put forward by Deputy Gorey or by any of the other speakers up to the present. There has not been a single attempt by Deputy Gorey to produce a single intelligent argument in favour of the figure he put forward, or a single

intelligent argument against the figure that I put forward. We simply have had a lot of hot air from Deputy Gorey and a lot of hot air, more or less, from the Farmers' party.

MR. GOREY: Hot air on the part of the landlords has been put forward by the Minister.

MR. HOGAN: And we have had all this for 10s. per annum.

MR. GOREY: Yes, why not?

AN CEANN COMHAIRLE: Order, Order. Deputy Gorey will have to sit quiet and cease from interrupting. I am getting completely tired of Deputy Gorey's interruptions, and I cannot allow him to continue.

MR. HOGAN: Let me now try to bring a little common sense into this debate. We have been here for hours and the proceedings have been a perfect farce so far as the Farmers' party is concerned. We have had plenty of histrionics, plenty of excitement, and there has been a lot of hot air about. For the average tenant 10s. is the figure involved, and that was only arrived at a couple of days ago. It had been 50 per cent.—that was the figure put forward through the organisation; they started at sixty and it reached fifty-four and three-quarters, on one occasion, which was meant, of course, to show how accurately the figure was arrived at. Now the figure is forty per cent. As the President has pointed out, that is for the average tenant 10s. per annum. The business of the Dáil must be held up, in order that the country may be shown how some people's hearts are bleeding and are broken for the unpurchased tenant, and how other people's hearts are not. The very party that Deputy Gorey represents agreed with the landlords to take a twenty-five per cent. reduction in 1920.

MR. GOREY: Nothing of the sort!

MR. HOGAN: Was there not an agreement between the landlords and the Farmers' Union in 1920 to settle upon a twenty-five per cent. reduction basis?

MR. GOREY: There was an agreement between the Farmers' Union and the landlords of those days.

MR. HOGAN: What! 1920?

Mr. GOREY: There was an agreement between them in that year to take thirty per cent. reduction on first term rents, and twenty-four per cent. reduction on second term rents. I want to say that the Farmers' Union in those days was a Landlords' union led by a landlord, Colonel O'Callaghan Westropp, and backed up by landlords' men, in the union. They were kicked out of it and then we formed the Unpurchased Tenants' Organisation. They did not represent the unpurchased tenants and never acted for them.

Mr. HOGAN: We could all get excited if we wanted to, as well as Deputy Gorey. I take his own figure. They accepted thirty per cent. for first term rents, and twenty-four for second term rents. They accepted the terms of the 1920 Act, which gave an average reduction of 25 per cent. on first and second term rents. I am giving a reduction of 35 per cent. The Farmers' Union accepted the 25 per cent. reduction under the 1920 Act, and, I ask, did Deputy Gorey or any member of the Farmers' Union ever denounce the action of the Union at that time for accepting such a reduction, or write a single letter to a newspaper in Ireland denouncing this betrayal of the interests of the unpurchased tenants by what we are now told was this renegade Farmers' Union.

Mr. WILSON: The price for produce was different then.

Mr. HOGAN: Here is a serious question, be it big or small, and as Deputy Davin knows, it is not the number of tenants involved, it is the principle of how much you are going to pay where you acquire property compulsorily. The serious question is, how much you are going to give for it. It is a serious question, even from Deputy Gorey's point of view, the question of how much you are going to pay for property that you acquire compulsorily. How did the Farmers' Union tackle it? They started off with a demand for a 60 per cent. reduction, then they came down to 54½ per cent., and later to 50 per cent., and now we have a demand for a 40 per cent. reduction. Previously, as I have stated, they were satisfied with a 25 per cent. reduction. I say this is pure casual guess work. I said before that I do not begrudge the farmers or the Labour Party their pic-nic. They have a magnificent

opportunity, and if we on these benches had such an opportunity I am sure we have splendid imaginations and would look for a 60 per cent. reduction if we thought we could get it. We could have made tremendous speeches about the poor tenants of Ireland, but we did not talk about land purchase; we did not go around the country when the confusion was at its height and when you had the energies of any man who had the good of the country at heart trying to bring about conditions of peace and security, and trying to do what they could to allay the class war that was developing at the time. We did not go around the country at that time preaching doctrines that we did not believe in in regard to the price at which property should be compulsorily acquired. On the contrary, we tried to see to it, as far as we could, that any man in the country whether a landlord, a tenant or a workman would get his legal rights. We have done that, and we are now introducing this Land Purchase Bill. I have heard a good many speeches from people who were never within half a mile of an unpurchased tenant, and who know nothing about his condition. They talk now about his rights and his wrongs, but I say that 95 per cent. of the unpurchased tenants of the country know perfectly well that the price in this Bill is a tip top one from their point of view. Deputy Gorey knows that, too, just as well as I do, and so does the rank and file of the unpurchased tenants. A reduction of 35 per cent. is considerably more than they ever expected to get, and Deputy Gorey, and every other Deputy in this Dáil, I do not care to what Party he belongs, knows that perfectly well. The unpurchased tenants know that that reduction is a good deal better than they ever expected to get, and that it is more than fair. I explained on the First and Second Reading of the Bill why we arrived at this price. I put forward specific reasons, and I have waited here since to hear one of them deliberately met or to be shown to be inaccurate or unsound in any respect. I have not heard it done. No one has attempted to do it. It was simply histrionics from all Parties when they were not engaged in an academic discussion on the rights of property, histrionics which are about twenty years out of date and which deceive nobody. I said in introducing the Bill that we tried to be just to the landlords and

[Mr. Hogan.]

generous to the tenants. These terms are generous to the tenants; the tenants know they are generous and Deputy Gorey knows it also, and if, as a result

of any monkey tricks, this Bill was beaten, and that the price in it was not obtained, it would be very bad business for Deputy Gorey and the Deputies sitting with him. Amendment put.

The Dáil divided: Tá, 21; Níl, 33.

Donchadh Ó Guaire.
Seán Ó Duinnín.
Domhnall Mocháin.
Tomás de Nóglá.
Liam de Róisto.
Seoirse Ghabháin Uí Dhubhthaigh.
Tomás Mac Eoin.
Seán Ó Ruanaidh.
Liam Ó Briain.
Tomás Ó Conaill.
Aodh Ó Cúlucháin.

Séamus Éabhróid.
Risteárd Mac Liam.
Liam Ó Daimhín.
Seán Ó Laidhín.
Cathal Ó Seanáin.
Domhnall Ó Broin.
Domhnall Ó Muirghoasa.
Risteárd Mac Fheorais.
Micheál Ó Dubhghaill.
Domhnall Ó Ceallacháin.

Nil.

Liam T. Mac Cosgair.
Gearóid Ó Súilleabháin.
Uaitéar Mac Cumhaill.
Seán Ó Maolruaith.
Pádraig Mac Ualghair.
Seosamh Mac Suibhne.
Peadar Mac a' Bháird.
Domhnall Mac Cárthaigh.
Maolmhuire Mac Eochadha.
Sir Séamus Craig.
Liam Trift.
Liam Mac Aonghusa.
Pádraig Ó hÓgáin.
Pádraic Ó Máille.
Seoirse Mac Niocaill.
Piaras Béasláí.
Fionán Ó Loingsigh.

Séamus Ó Cruadhlh.
Cristóir Ó Broin.
Proinsias Bultin.
Séamus Ó Dóláin.
Aindriú Ó Laimhín.
Liam Ó hAodha.
Proinsias Mac Aonghusa.
Eamon Ó Dúgáin.
Peadar Ó hAodha.
Séamus Ó Murchadha.
Seosamh Mac Giolla Bhrighde.
Liam Mac Sioghaird.
Tomás Ó Domhnaill.
Eamán de Blaghd.
Uinseann de Faote.
Séamus de Burea.

The amendment was declared lost.

DAIL RESUMES.]

AN CEANN COMHAIRLE: As it is now after 8.30 the Committee reports progress and will sit again to-morrow.

As has already been decided the Dáil will meet to-morrow at 12 o'clock.

The Dáil adjourned at 8.35 p.m. until Friday, July 6th, at 12 o'clock, noon.

DÁIL EIREANN.

DE HAoine, 6ADH IúIL, 1923.

(Friday, 6th July, 1923.)

Cromadh ar obair an lae ar a 12.5 p.m. Bhí an Ceann Comhairle, Micheál O hAodha, sa Chathaoir.

CEISTEANNA—QUESTIONS.

[ORAL ANSWERS.]

ANCIENT BUILDING AT HOWTH.

EARNAN ALTUN asked the President whether the Government are taking any steps to prevent the erection of a shop in the ancient building known as The College, which forms a portion of the Abbey at Howth; whether, in view of the fact that this building is probably the only example of such structures left in Ireland, the Government will endeavour to protect it and secure it for the nation.

MINISTER for FISHERIES (Mr. F. Lynch) replying for the President: The Abbey at Howth is in the guardianship of the Board of Works as an Ancient Monument, but the building known as The College is not included in the premises vested in the Board, and they have no power over it. If the Deputy will let me have the evidence on which he bases his view of the historic interest of the building, I will consider it.

Mr. ALTON: I will be very glad to let the Minister have the information required.

CENTRALIZATION OF POOR RELIEF.

TOMAS de NOGLA asked the Minister for Local Government whether he has received a resolution from the Glin Rural District Council, protesting against the centralization of poor relief, and the administration of the Medical Charities Act under a County Committee, and whether he is prepared to make any arrangements which would meet the Council's desire for local control of these matters.

MINISTER for LOCAL GOVERNMENT (Mr. E. Blythe): The resolution referred to has not yet reached me. There need be no apprehension on the part of the Glin Rural District Council as to the effects of centralising local administration in these matters.

MALLOW-MITCHELSTOWN-WATERFORD RAILWAY LINE—QUESTION OF RE-OPENING.

MICHEAL O HAONGHUSA asked the Minister for Industry and Commerce whether he will state if preparations are being made to re-open the line Mallow to Mitchelstown, to Waterford; whether he is aware that the people in this large area are suffering severely for want of this service, and when he proposes to have this line re-opened.

Mr. BLYTHE (replying for Minister for Industry and Commerce): On the Dungarvan-Waterford Branch the main repair is that of Ballyvoile Viaduct. This is a specially difficult job, and has been delayed by an alteration in the method of repair designed to keep as much of the work in the country as possible. It will necessarily take some months before the repair is completed according to the altered design.

On the Mallow-Dungarvan and Fermoy-Mitchelstown Branches all damage has now been made good with the exception of the Carrig Viaduct and the bridge at Cappoquin. The repair of Carrig Viaduct is being carried out by the Government and the contract for the timber centering has been completed. The contract for the masonry work is now proceeding and the whole is due for completion on the 22nd August next. The repair at Cappoquin is being carried out by the Railway Company and, if no interruption to the work is caused by any stoppage at the Ports, is due for completion on or about the same date as Carrig Viaduct.

OCCUPATION OF CASTLEGREGORY (CO. KERRY) PREMISES.

SEAN O CRUADHLAIOICH asked the Minister for Defence whether he is aware that the premises of Mr. John O'Donnell, Castlegregory, Co. Kerry, have been considerably damaged while in the occupation of National troops, and that he has suffered great hardship

[Sean O Cruadhlaioich.]

by the closing down of this business, and that no effort has been made to adjust the claim or visit the premises; to ask that this claim is adjusted immediately.

Mr. LYNCH (replying for the Minister for Defence): I am aware that the premises referred to have been occupied by troops but have no information as to the damage stated to have been caused during occupation. An immediate inspection in this case is being arranged.

ARMY ACCOUNTS (CORK COUNTY).

MICHEAL O HAONGHUSA asked the Minister for Defence whether he is aware that a large number of accounts still remain unpaid by Army Authorities in Cork City and County, such as billeting of troops accounts, motors, etc., commandeered and damaged accounts; that many of these accounts are still outstanding since last September and October; whether the Minister will have payments expedited in these cases, and whether, in the case of persons seriously financially embarrassed as a result of the delay in paying these accounts, the Minister will confer with the Minister for Finance and arrange that a certain reasonable sum on account be advanced in such cases, pending final investigation and disbursement.

Mr. LYNCH (replying for the Minister for Defence): A considerable clearance has taken place in the matter of paying outstanding accounts in the Cork area. The number that at present remain unpaid are comparatively small and consists principally of accounts whose certification is difficult owing to the particular circumstances in which they were incurred. A special responsible Officer has, within the last few days, been sent to Cork to report on the immediate steps required to clear up all outstanding accounts in the City and County.

I should be glad to receive from the Deputy a written statement of any information at his disposal that might help in the matter.

QUESTION ON ADJOURNMENT.

CATHAL O'SHANNON: I desire to give notice that on the adjournment I will raise the question of the strike in the Ballyhaise Agricultural Station.

PRIVATE NOTICE QUESTION.

ACQUISITION OF GOREY HOSPITAL.

RISTEARD MAC FHEORAIS asked the Minister for Local Government if any arrangement has been entered into between his Department and that of the Minister for Defence, on the lines indicated in the latter's statement on Wednesday evening, namely, to transfer the patients at Gorey Hospital to the County Hospital.

Mr. BLYTHE: The answer is in the affirmative.

Mr. CORISH: That is to say that the Minister for Local Government has agreed to the transfer of patients? Has the Minister agreed with the Minister for Defence on the subject of transferring the patients?

Mr. BLYTHE: Yes, provided the doctor finds them fit at the moment to be transferred.

Mr. CORISH: Is the Minister aware that that is in conflict with the proposals of the scheme provided by the County Council? Is he aware it is doing away with the District Hospital in Gorey?

Mr. BLYTHE: It is not doing away with the District Hospital in Gorey. It is being taken possession of by the military for the time being.

Mr. CORISH: Am I to understand that the Minister will see that the Minister for Defence will provide alternative accommodation for the patients?

Mr. BLYTHE: I do not think so.

Mr. CORISH: That is very unsatisfactory. In view of what I consider to be the very unsatisfactory reply of the Minister, I desire to raise this matter again on the adjournment.

Mr. BLYTHE: Put it off until Monday or Tuesday.

AN CEANN COMHAIRLE: Notice has already been given by Deputy O'Shannon to raise a matter on the adjournment, and we can only have one matter raised then.

THE DAIL IN COMMITTEE.

LAND BILL, 1923—THIRD STAGE RESUMED.

AN CEANN COMHAIRLE: We have disposed of Amendment 96 to the First Schedule. Amendment 97 appears to me to fall consequentially. Has Deputy Gorey anything to say on that?

Mr. GOREY: No, if it is consequential on the other.

Amendment: To delete all the words in Part 1, occurring after the word "namely," and to substitute in lieu thereof the words "60 per cent." Not moved.

First Schedule put and agreed to.

Question: "That Sections 23 and 24 stand part of the Bill," put and agreed to.

SECTION 25.

(1) The tenant of every holding of tenanted land vested in the Land Commission by virtue of this Act, and to which this section applies, shall be deemed on the appointed day to have entered into a subsequent purchase agreement for the purchase of the holding from the Land Commission at the standard price.

(2) There shall be payable by the tenant to the Land Commission an annual sum, equivalent to the standard purchase annuity for the holding, from the appointed day until the gale day next after the holding is vested in the tenant. The Land Commission shall have for the recovery of such annual sum the same remedies as they have for the recovery of unpaid instalments of purchase annuity.

(3) Every holding to which this section applies shall be vested in the tenant by the Land Commission by vesting order or otherwise.

(4) All payments made by the tenant after the appointed day on foot of the annual sum payable by him to the Land Commission under this section shall, from and after the vesting of the holding in him, be treated for all purposes as if they had been payments in respect of purchase annuity.

(5) This Section shall not apply to:—

(a) Any holding in respect of which the standard price exceeds three thousand pounds; or

(b) Any holding in the beneficial occupation of a tenant who is on the appointed day the proprietor of lands for the purchase of which advances have been made under any of the Land Purchase Acts, and whether redeemed or not, if the total amount resulting from the addition of such advances to the standard price exceeds £3,000; or

(c) Any holding as respects which the Land Commission declare that it is not in the public interest that the holding shall be resold to the tenant as aforesaid, whether on the ground that the improvement of the holding is essential and practicable, or otherwise; or

(d) Any holding which in the opinion of the Land Commission ought to be retained for improvement or enlargement, or for utilisation in connection with the relief of congestion,

all which holdings are in this Act referred to as retained holdings.

Mr. BLYTHE: I beg to move amendment 45 standing in the name of Eamon O Dugain. It is:

To insert a new Sub-section after Sub-section (2), as follows:—

"There shall be payable by the tenant to the Land Commission on the gale day on which the first instalment of the said annual sum shall become payable by him an additional sum, equivalent to a proportion of the said annual sum in respect of the period between the said gale day and the day on which the next dividends are payable on Land Bonds issued under this Act. The Land Commission shall have for the recovery of such additional sum the same remedies as they have for the recovery of unpaid instalments of purchase annuity."

The object is to enable the Land Commission to meet the amount that will be payable in respect of dividends for the short period that will elapse between the gale day and the day indicated.

Amendment put, and agreed to.

Mr. JOHNSON: I beg to move:—

To add at the end of Sub-Section (3) the following:—

"Provided that the Land Commission is satisfied that the tenant is cultivating, and will continue to cultivate the land as an ordinary farm in accord-

[Mr. Johnson.]

ance with the proper methods of husbandry, and if he fails so to satisfy the Land Commission within a period of five years from the appointed day he shall no longer be deemed to have entered into a purchase agreement for the purchase of that holding."

The object of the amendment is to ensure that a proper method of husbandry referred to in a later clause as a condition shall be applied to all the land that is sold to the tenants. This is to endeavour to secure that the land that is purchased will at least be farmed in such a way as to satisfy the Land Commission, and to militate somewhat against the pure grazing system. There is no need to enlarge at this stage on that question. We are all satisfied that the advantages to the country are greater by reasonable methods of husbandry than by mere grazing. One of the conditions under which the State should come to the assistance of the tenants should be that a reasonable proportion of the land should be brought into cultivation. This amendment will not affect, to any appreciable degree, the great majority of the farms that are affected by this Bill, inasmuch as they are small holdings which in the main are cultivated. It will affect a minority of the holdings which are merely grazed and are not farmed. That is to say, they are not held by agriculturists.

The object of the amendment is also to ensure, as far as the Land Commission can, that the land that is being transferred under the ægis of the State should be brought into cultivation.

Mr. HOGAN: This is an amendment to Section 25, that is to say, to the Section that deals simply and purely with tenants. There is an Amendment 62 to Section 28 in the same sense. Section 28 deals with advances for parcels of land, that is, advances to landless men for new holdings. I am prepared to accept something on the lines of Amendment 62—not in the terms of the amendment but something on these lines. When we reach that amendment I hope to read out the one which I will be prepared to accept. I would not be prepared to accept the amendment in connection with Section 25, which deals with tenanted land, for the very good reason that it would mean nothing. We are dealing with tenants; people who for one reason

or another have vested interests in their holdings, grown up over a long period, and under all sorts of conditions, and around which a great lot of Irish history has been made. In that state of affairs it is idle to put in a provision which means that if the Land Commission official is not satisfied with the operations of the particular tenant he shall have power to take the holding from him. You could not do it. It could not be done. These are the facts as we find them at the moment. I do not believe, and I think the Deputy admitted it, that, except in the case of a very few holdings, it can make any difference. If you make economic holdings and give the small man sufficient land to make his holding economic without the assistance of any inspector, either of the Department of Agriculture or the Land Commission, he will work that holding economically. That has been the experience of the 1903 Act. Practically all the tenants who got economic holdings are farming their land as well, perhaps, as land is farmed either in Germany or France. Ownership made a tremendous difference. There is no real reason, therefore, for this in connection with tenanted land. It might, possibly, apply to two or three per cent. of cases, and it might, possibly, do some good in two or three per cent. of cases. But it has a great many drawbacks, and in 95 per cent. of cases it would be unnecessary and, if necessary, impossible to put into operation. Hence I could not accept it in connection with Section 25, but I am prepared to accept something on the lines of amendment 62 in connection with Section 28.

Mr. JOHNSON: Did the Minister not consider that even two or three per cent., at least, should be deprived of the advantages which the Bill gives? That is all that the amendment proposes to do. It simply says that the purchase agreement shall not be entered into, that the purchase of the landlord's interest shall not be entered into, if the obligations laid down have not been fulfilled.

I admit this is only going to apply to two or three per cent. of cases, but it is for the two or three per cent. that I would like the amendment to be carried, or something to take its place to secure the same end, even for the tenanted land. We have been reminded frequently that there are black sheep even among small

holders, that there are small holders who are not doing their duty by their holdings, and even the moderate pressure that this would apply to those might be sufficient to induce proper cultivation. The effect of the amendment would be to leave them as they are, not to give them the advantage of this Bill. That, I think, is not a great penalty, but it might be sufficient to induce that two or three per cent. to do their duty by their holdings and by the State. I think something of the same kind which is proposed to be applied to other classes of holders might well be applied to the tenant holder who does not do his duty by his land.

Mr. HOGAN: I think the answer to that is—that any amendment of that sort would really put a duty upon the Land Commission to keep inspecting holdings even though they would not find it necessary. You would have there in black and white in an Act of Parliament a provision which would make it the duty of the Inspectors to keep inspecting the holdings of the 70,000 tenants, between the appointed day and the date of vesting, in order to make sure that they were farming properly. We all know that they could not do that. It is hardly sound to put into an Act of Parliament something which we know cannot be carried out effectively. Further, take the two or three per cent. of cases of people who are not farming their land efficiently. We are in a position to deal with them under the Bill. When the Land Commission is making up its mind as to whether it will sell £3,000 worth or more of land to any farmer, it will certainly take into account whether he is a good farmer or not. They ought to take that into account, and they will be able to penalise the man who is not likely to make a good farmer by refusing to sell and exercising their discretion. With regard to the small tenant, I have seen cases of small tenants who were bad farmers, and lazy, perhaps, allowing their holdings to get into disrepair, and who after two or three years of ownership have become really good farmers. The best thing you can do with a small holder of that kind—even the two or three per cent.—is to give him an economic holding and make him the owner. Even though he has been an idle farmer up to then, even though his conditions made him rather careless and, perhaps, hopeless, still if

you give him an economic holding, after two or three years of ownership he will begin to bend his back to the work, and in five or ten years will turn out one of the best farmers. Under that provision we might take up the holdings. These are the very cases in which we might take up the holdings, and we would be simply defeating our own object. We have ample powers within the four corners of the Bill to penalise any farmer who is not doing his duty to the State. Such a section I am afraid would be a dead letter. You have to consider the expediences of the case as there are 400,000 tenants who have purchased without such a section. You put in a section which gives in a general way the idea that the Land Commission or the Department of Agriculture have some control after vesting, even when the tenant becomes the owner of the holding, which will cause further discontent amongst small tenants, who are rather shy of reading Acts of Parliament, and which will do more harm than good. I am afraid we are prisoners of history in the matter. We are dealing with 70,000 tenants and in respect to their proprietorship you cannot make distinctions between the 70,000 who have not purchased and the 400,000 who have purchased.

Mr. McBRIDE: Deputy Johnson's idea of farming is only theoretical, and I presume the knowledge that the Minister for Agriculture has on the subject is much the same. All farmers, large and small, are out to make money. If the economic conditions permit it the large farmer will till a certain amount of his land in order to carry his stock during the winter. If he does not do so one or two of his neighbours will till portion of their land, and those who do not till can buy feeding from them. Supervision or over-riding of the economic wishes of small holders, or even of large holders, is not at all agreeable, and would not have any results commensurate with the ideas of Deputy Johnson.

Mr. GOREY: This strikes me as a peculiar amendment. There are only 70,000 unpurchased tenants in the country while there are 400,000 who have purchased. This condition that it is sought to impose on the smaller number was never imposed on the larger number. It is compulsory interference, compul-

[Mr. Gorey.]

sory tillage or compulsory husbandry in the minds of theorists. I wonder would Deputy Johnson advance the principle of compulsory State interference about which we have heard a good deal in every business? Deputy Johnson and some other people seem to get it into their heads that it is only with land cultivation and farming that the State should interfere, or that it has room to interfere. I think this view is borne by people who know nothing about agriculture, and who do not live on the land. The men who know least about land are ready to talk the most about it. I know very little about business, and I do not want to interfere in anything I know nothing about. I leave business matters to commercial men. I do know a little about farming, and I say, and I know, that the State would be doing the worst thing it could do, to start compulsory interference in an industry run by men bred to it, and who have always, with a few exceptions, done the right thing. Deputy Johnson must assume that people engaged in agriculture are fools and that they do not know their business. This is really the thin end of the wedge towards compulsory tillage and compulsory supervision of the land. We had enough of that before. I oppose this amendment most heartily.

Mr. SEARS: A point made by Deputy Johnson was that if this amendment is carried, so far as the small men are concerned, it will only put them back in the position they were in before, and merely deprive them of the advantages of the Bill. They will not be able to enjoy the full advantages of the Bill as under it they will get a reduction of 30 per cent. on the rents. If the amendment is carried they will not get that reduction. As the Minister for Agriculture stated they will not get that chance of becoming industrious self-supporting tenant farmers.

Mr. JOHNSON: One is surprised to hear the arguments against this amendment. We have been led to believe for many years that the acquirement of the tenants' interest, and security of tenure had, as a matter of fact, ensured that the holdings would be well cultivated. Now we are told that that cannot be secured unless this transfer that is sought for in this Bill takes place—that there is really

no security of tenure and no fair rent fixed—that, as a matter of fact, until the landlord's interest has been purchased out, the tenant is as he was before the 1881 Land Act. That contradicts all the claims that have been made in the past in furtherance of land purchase and fixity of tenure. The argument of Deputy Gorey, and more particularly the argument put forward by Deputy McBride, really go to the heart of this question. It comes to this, that under the Bill tenant purchasers may, if it pays them better, leave the land in grass. If it pays them better to let the land to the promoters of any new amusement then they may do so, that the interests of the State are not to be considered if those interests run across the monetary interests of the peasant proprietor. I join issue with that at once, and I would have understood up to this morning that Deputy McBride would not subscribe to such a doctrine. It is the argument of the grazier. It was the argument of the landlords who cleared their estates. They owned this property and might do what they liked with it. It is the argument, the policy, and the practice that led to the depopulation of Ireland. I dissent from that at once, and I say, as I have said before in this debate, that this land is held in trust, and the proprietor has not a right to let it go to wreck and ruin or to let it go into grazing at the expense of the people, if that policy means, or might mean, the depopulation of the country and the driving of still larger numbers away from the land. We contend—and it is sought to apply that contention to these holdings—that there should be some check upon even the possibility that the new proprietors will allow their land to go to waste.

It may be more profitable—it has been—to allow the land to be grazed than to allow it to be tilled. Therefore, the argument runs, the land must be grazed. If the demand for Irish cattle in England grows and grows, and if the demand for store cattle is growing, and the profits out of store cattle are to be increasingly greater as compared with the profits out of other produce, then, the argument runs, the landholders may and should have perfect freedom to allow that grazing system to be developed. I am surprised that Deputy McBride should put forward such a proposition, but I am still more surprised that Deputy Gorey should

do so, in view of amendment Number 62. In that amendment he does, as a matter of fact, propose certain restrictions.

Mr. GOREY: Not of the same kind at all.

Mr. JOHNSON: Certain people shall prove their competence to work the land and if they do not prove it then the Land Commission shall have power to resume the land. I am surprised that Deputy Gorey should denounce the proposition that I have put forward on the grounds that he has done while at the same time he is proposing an amendment of a similar kind to another section. It is really not a very germane argument to say that because 400,000 tenants have become proprietors under Acts passed in the British Parliament without restrictions that we, when passing another measure to make 70,000 tenants into proprietors, must not put restrictions forward which we deem to be desirable. Because there were certain omissions, because past generations made mistakes in regard to 400,000 people, it is not a sound reason why we should make a similar mistake in regard to 70,000 people, and I do not think the alleged evil effects of the amendment are going to affect any but those who are incompetent. If it is true that proprietorship, and a sense of proprietorship, will make the change that the Minister believes, then all that is required in the amendment is that the Land Commission should be satisfied that a person is likely to prove a good husbandman, and as it will only affect two or three per cent., and perhaps even a smaller proportion, of the larger holders who are keeping their land out of cultivation because it pays them better, against the well-being of the State. That is the reason why I ask the Dáil to support the amendment.

Mr. FITZGIBBON: Apart altogether from any question of policy, it does not seem to me that this amendment could possibly be put into operation. How is the Land Commission to be satisfied that the tenant will continue to cultivate the land as an ordinary farm? What period is that satisfaction to cover? Is it to the end of time or is it only a particular tenant or the particular tenant claiming by descent or otherwise from him? I am trying to put my-

self into the position of some one on behalf of the Land Commission. I am trying to discover whether my mind is satisfied or not that a particular tenant who has been on the land sufficiently long for him to be a purchaser under this Act has an intention that is going on for some interminable period to continue to cultivate his land as an ordinary farmer. Why, the thing is quite impossible. If it is to be done merely by the tenant making a declaration to the Land Commission:—"I hereby declare that it is my intention to go on cultivating," why, this thing is meaningless. All he has to do is to make a declaration of his intention to cultivate. If, on the other hand, his statement of intention is not sufficient, how, in the name of heaven, the Land Commission is to be satisfied of that intention I cannot see. Moreover, this amendment does not say what is to become either of the tenant or the unfortunate holding.

Supposing the Land Commission is not satisfied? The tenant is no longer to be deemed as having entered into a purchase agreement, but he is the tenant of the holding. This section deals only with what we may call the sitting tenant. He is no longer liable for rent, because his landlord has gone. He is only liable to the Land Commission by reason of his being assumed to have entered into a purchase agreement. Therefore, it seems to me that this amendment, if enacted in the form it is at present, creates the simple position that the tenant who is in possession and did not satisfy the Commission should, therefore, remain free of rent or purchase annuity. There is no condition that the Land Commission, or any one else, is to resume possession of the holding, as there is in Deputy Gorey's amendment later on. At all events, part of the objection I have to the present amendment applies to Deputy Gorey's as well. The main thing is that if the tenant fails to satisfy the Land Commission at a certain date, he shall no longer be deemed to have entered into a purchase agreement. He is back to where he was before, with the exception that he is no longer under liability for any rent to the landlord or purchase annuities to the Land Commission or anyone else.

Mr. ROONEY: In this Dáil we hear a lot about the duty of the farmer to the

[Mr. Rooney.]

State, but we would also like to hear the duty of the State to the farmer. Deputy Johnson seems to think that it would be a far better and wiser policy for the farmer to engage on a line of production which does not pay. Nobody says that it does. The Agricultural Commission is sitting, and no one has come forward to say that agriculture pays. What I want to know is—is the farmer to run his business at a loss for the benefit of the State? That is what Deputy Johnson's argument comes to, to my mind.

Mr. MacBRIDE: Deputy Johnson is under a misapprehension as far as I am concerned. At a matter of fact nine-tenths of the land in Connaught, with which we are immediately concerned, cannot be continuously grazed; it must be tilled in order to carry the store cattle which Deputy Johnson considers are sold at enormous profit in England. But while I say that, there are other portions of land that cannot profitably be tilled. What would Deputy Johnson say about growing a field of potatoes where every stalk would be five or six feet high, with no potatoes underneath? That is not economy by any means, and that is what we want to guard against. Every farmer in Connaught, or any other place, must be as free as any shopkeeper in Dublin. He must support himself and his family, and in order to do that he must economically work his farm. He must till one field and graze another, or he must graze one farm and till another, and so on.

Mr. JOHNSON: If the Deputy will read the amendment he will see that is provided for. I would draw the Deputy's attention to the provisions of Section 29. When we come to it I will listen with interest to his objections, but I do not know whether he intends to object to the provisions requiring that proper methods of husbandry shall be applied. If it is wrong in this case it is wrong in that case. If there are no proper methods of husbandry applicable to the case of the tenant purchaser, then there are no proper methods of husbandry applicable to the owner and the persons affected by Section 29. If Deputy Rooney is interested I tell him quite frankly that I will apply the same principle to every holder of every factory, mill, or other productive institution in the country.

Mr. GOREY: And every shop.

Mr. JOHNSON: Every shop.

Mr. GOREY: And every salary.

Mr. JOHNSON: Every factory and productive institution in the country. They are held in trust for the common good, and if they are held out of use, or not made reasonable use of, then they have a right to be interfered with and brought into proper use. If that is not sound morality as well as sound economics then I am open to be convinced to the contrary, and to have explained to me what is sound morality, and what is sound economics. One would have thought that we would not have had expounded the doctrine that every man has a right to do what he likes with his own. That is the doctrine that Deputy MacBride, Deputy Rooney, and Deputy Gorey want to impress us with. I deny it, and particularly if there is any satisfaction in that, in its application to that which is the very basis of life, the land. The whole theory of land holding in this country is that it is held by the occupier for the common good, and if its use by that occupier is against the common good then he has no right to further trusteeship over the land.

MINISTER for HOME AFFAIRS

(Mr. O'Higgins): This discussion brings us back to the Constitution, and reminds me very much of the debates which took place when that Bill was going through this Dáil. I doubt if we ought to waste time, at this stage, and on this Bill, in discussing abstract principles. In one sense Deputy Johnson stated nothing that will not be found on the first stage of "Williams on Real Property." Land is held from the State, and in the past the State, not this State, but the British Government in its time here, has acted on that. In the course of the European War, when there was a food shortage, they insisted that owners of land should use it in the interests of the State, or putting it at the lowest, that at any rate they should not use it in the worst interests of the State, and cases occurred in which people were put out of possession of the land on the ground that they were not using it in the best interests of the State, or that they were using it contrary to those interests.

There were, of course, those who held it was an absurdity to indulge in urging

petty prosecutions for food hoarding and to connive at the hoarding of the raw material of food production. Now, from time to time, in the face of great public needs, other States have shown, and no doubt, this State has shown, that there is no absolute property in land. One speaks of a "holding" rather than of absolute property. There is not, for instance, that absolute property in land that a man may claim in his watch, which he can wind or leave unwound if it suits him. Land has been taken, from time to time, compulsorily for railways. We, ourselves, have admitted that principle from time to time, not merely with regard to land but also to premises. We have admitted it lately in passing a Bill for the compulsory acquisition of premises for the Civic Guard. That principle is not seriously questioned. I doubt if this amendment is calculated to improve this Bill. Everyone knows it suffers, as Deputy FitzGibbon pointed out, from much vagueness. What is an ordinary farm? Who is to decide whether a tenant is going to continue to cultivate it as an ordinary farmer? What is the proper method of husbandry?

Mr. JOHNSON: If you refer to Section 29 of the Bill you will find these matters stated there.

Mr. O'HIGGINS: It seems to me there will be various opinions as to the

proper methods of husbandry, and the proper methods of husbandry will vary a good deal with the quality of the land and the nature of the soil, so that you are going to put a rather big task on whoever is to interpret this amendment if it becomes part and parcel of the Bill. I think that Deputy Johnson, although it was pointed out to him that this was a matter of two or three per cent., is rather out, through this amendment, to get recognition of a principle which is not challenged.

Mr. JOHNSON: All that is required is that the principle that is advocated by the Minister in regard to one set of holdings shall be applied to the other set.

Mr. HOGAN: All I need say is that I do not think there is any doubt whatever that it is the duty of the State to make arrangements to provide that the National resources, and in particular the land of the country, shall be used to the best advantage. The question is, how? I maintain, as far as the particular case we have under discussion goes, that the best way to do that is to divide the land among the tenants of the country by making them the owners of their holdings, by making their holdings economic and putting them in a position to get the best themselves out of the land.

Amendment put.

The Dáil divided: Tá, 10; Níl, 37.

Tá.

Tomás de Nógha.
Tomás Mac Eoin.
Tomás Ó Conaill.
Seamus Eabhróid.
Liam Ó Daibhín.

Seán Ó Laidhin.
Cathal Ó Seanáin.
Domhnall Ó Muirgheasa.
Risteárd Mac Fheorais.
Domhnall Ó Ceallacháin.

Níl.

Donchadh Ó Guaire
Seán Ó Maolruaidh
Micheál Ó hAonghusa.
Domhnall Ó Mocháin.
Pádraig Mac Ualghaigh.
Seosamh Mac Suibhne.
Peadar Mac a' Bhaird.
Darghal Fíges.
Micheál de Duram.
Seán Mac Garaidh.
Domhnall Mac Cárthaigh.
Eamán Altún.
Sir Séumas Craig, Ridre, M.D.
Gearóid Mac Giobáin, K.C.
Liam Thrift.
Pádraig Ó hÓgáin.
Pádraic Ó Máillo.
Seoirse Mac Niocaill.
Fionán Ó Loingsigh.

Séumas Ó Cruithlaoich.
Cristóir Ó Broin.
Risteárd Mac Liam.
Caoimhghlin Ó Uigín.
Proinsias Bullin.
Aindriú Ó Lámháin.
Liam Ó hAodha.
Proinsias Mac Aonghusa.
Peadar Ó hAodha.
Seosamh Mac Giolla Bhrighde.
Liam Mac Sioghaire.
Alasdair Mac Caba.
Tomás Ó Domhnaill.
Eamán de Blaghd.
Uinseann de Faoite.
Domhnall Ó Broin.
Seamus de Burea.
Micheál Ó Dubhghaill.

Amendment declared lost.

Mr. GOREY: I move Amendment 47:—To delete from the word “of,” line 5, page 10, Sub-section (5) (b), to the word “or,” line 7, inclusive, and to substitute therefor the words: “To the standard price of the amount obtained by capitalising at the rate of four and three-quarters per cent. the original annuities payable on such advances, exceeds £3,000, or.”

This amendment does not require much commendation. It is merely to put the average tenant on the same level. Under the other Acts the part-purchaser would not be on the same level as the part-purchaser under this Act. The capital sum required at 2½ per cent. under the Wyndham Act and the capital sum required at 4½ per cent. under this Bill would be different sums altogether. This amendment proposes to add annuity to annuity instead of advance to advance, as required by the Section as it stands. This would secure uniformity in assessing the real value of each of the holdings, whose price is to be added together for the purposes of this Section. Under the method proposed by the Section five holdings each paying an annuity of £100, payable under the Land Acts of 1885, 1891, 1903, 1909 and 1923, would all work out at widely different capital sums. The amendment proposes to substitute the annuity for the advance as a real test of the value of the holding. No matter what Acts the annuities are payable under they will be added together and capitalised for the purposes of this Section at the 4½ per cent. annuity rate of the present Bill. I am sure that the reasons I have advanced in favour of this amendment will appeal to every member of the Dáil. I am not seeking to put one man in an advantageous position as compared with another. I am seeking to put them on the same level, and I would ask the Minister to accept the amendment.

Mr. HOGAN: I am accepting this amendment. It is perfectly just and meets the particular cases equitably. It is quite possible that the tenant who had purchased one part of his holding under the 1903 Act would not be able to purchase the balance under a different title now, whereas if he had not purchased under the 1903 Act he would be able to purchase both portions now.

That is the result of the operation of the Bill, and the result of the price sections of the Bill, about which we heard so much last night. It is a correct principle, I think, to capitalise, as is suggested here, the original annuity at 4½ per cent. instead of at 3½ per cent. or 3½ per cent., as the case might be, when arriving at the advance.

Amendment put and agreed to.

Mr. HOGAN: That will lead to a slight consequential amendment in Section 30, which we will deal with later.

Amendment 48: In Sub-section (5), Clause (d), line 16, page 10, to add after the word “congestion,” the words: “or for the development of agriculture, or otherwise in the public interest.”
—Tomás O Conaill, Tomás de Nógla.

Mr. O'CONNELL: This amendment is consequential on an amendment which has been already lost.

Amendment not moved.

Motion made and question put: “That Section 25, as amended, stand part of the Bill.”

Agreed.

SECTION 26.

In the case of every holding retained by the Land Commission

- (1) The Land Commission shall have, and may exercise all or any of the powers exercisable by them as respects holdings on Estates vested in them, including powers of resumption of the whole or part of the holding, whether the holding is or is not part of an Estate or subject to a judicial rent; and in exercising the powers aforesaid shall have regard to the necessity of relieving congestion, the desirability of increasing the food supply of the country, and the manner in which the holdings have been used.
- (2) When the Land Commission resume part of a holding they may apportion the rent which was payable in respect of the holding at the date of the passing of this Act between the part resumed and the remainder of the holding as the justice of the case may require.
- (3) On any application by the Land Commission for or in connection with the resumption of a holding, the powers of the Court under Section five of the

Land Law (Ireland) Act, 1881, shall be exercised exclusively by the Judicial Commissioner whose decision shall be final.

In fixing the compensation payable to the tenant under the said Section the Judicial Commissioner may have regard to payments made by the tenant to the Land Commission under this Act.

- (4) There shall be payable to the Land Commission by the tenant of every retained holding an annual sum equivalent to the standard purchase annuity for the holding until the appointed day:—

- (a) if the entire holding is re-sold to the tenant until the gale day next after the vesting of the holding,
- (b) if the holding is resumed by the Land Commission, until the date of such resumption,
- (c) if part of the holding is re-sold to the tenant or is resumed by the Land Commission, until such date as the Land Commission shall appoint but subject to such apportionment or variation before that date as the Land Commission shall direct.

The Land Commission shall have for the recovery of such annual sum the same remedies as they have for the recovery of unpaid instalments of purchase annuity.

- (5) If the entire holding is re-sold to the tenant, all payments made by the tenant after the appointed day on foot of the annual sum payable by him to the Land Commission under this section shall from and after the vesting of the holding in him be treated for all purposes as if they had been payments in respect of purchase annuity.

In every other case such proportion of the payments aforesaid as the Land Commission shall direct shall from and after the vesting of any part of the holding in a purchaser be treated for all purposes as if they had been payments in respect of purchase annuity charged on that part of the holding.

Mr. BLYTHE: I move Amendment 49:—

To add, at the end of Sub-section (3), line 44, the following:—

“The compensation payable to the tenant shall be paid in $4\frac{1}{2}$ per cent. Land Bonds, equal in nominal amount thereto, and all claims attaching to the compensation shall be paid and discharged as if they were claims attaching to Purchase Money paid by means of $4\frac{1}{2}$ per cent. Land Bonds under this Act.”

Amendment put and agreed to.

Mr. BLYTHE: I move Amendment 50:—

To insert a new Sub-section after Sub-section (4):—

“There shall be payable by the tenant to the Land Commission on the gale day on which the first instalment of the said annual sum shall become payable by him an additional sum, equivalent to a proportion of the said annual sum, in respect of the period between the said gale day and the day on which the next dividends are payable on Land Bonds issued under this Act. The Land Commission shall have for the recovery of such additional sum the same remedies as they have for the recovery of unpaid instalments of purchase annuity.”

Amendment put and agreed to.

Motion made and question put:—

“That Section 26, as amended, stand part of the Bill.”

Agreed.

SECTION 27.

Motion made and question put:—

“That Section 27 stand part of the Bill.”

Agreed.

SECTION 28.

(1) Advances may be made to the following persons for the purchase by them from the Land Commission of parcels of land:—

(a) A person being the tenant or proprietor of a holding which in the opinion of the Land Commission is not an economic holding.

(b) A person who has entered into an agreement with the Land Commission for the exchange of his holding.

(c) A person who within 25 years before the passing of the Irish Land

Act, 1903, was the tenant of a holding to which the Land Purchase Acts apply, and who was evicted from that holding in consequence of proceedings in ejectment for non-payment of rent taken by or on behalf of his landlord, or in case such person is dead, a person nominated by the Land Commission as his personal representative.

(d) A person being a labourer who by reason of the sale of any lands under the provisions of the Land Purchase Acts has been deprived of his employment on the said lands.

(e) Any other person to whom in the opinion of the Land Commission an advance ought to be made.

(2) The Land Commission in deciding as to the suitability of applicants under this section shall be satisfied as to their competence to work the land, and their intention to do so, and not to sell, let or assign it.

(3) The Land Purchase Acts shall, subject to the provisions of this section, apply to the sale of a parcel of land in pursuance of this section in like manner as if the same was a holding and the purchaser was the tenant thereof at the time of his making the purchase, and the expression "holding" in those Acts shall include a parcel of land in respect of the purchase of which an advance has been made in pursuance of this section.

(4) Section 17 of the Irish Land Act, 1909, shall cease to have effect save as regards the sale of any parcels of land in respect of which purchase agreements have been entered into before the passing of this Act, and, save as aforesaid, any reference in any enactment to that section shall be construed as a reference to this section.

Mr. J. BURKE: I beg to move:—

In Section 28 to insert after the word "persons," Sub-section (1), line 18, the words "or bodies." This is merely a technical amendment, dependent on a later amendment I am moving which inserts a new paragraph after Sub-section (1) (d) and proposes that advances be made to trustees for the purposes mentioned in Section 4 of the Irish Land Act, 1903, as extended by this Act, for the purchase by them from the Land Commission of parcels of land. I do not think there is anything controversial in this amendment. Section 4 of

the Land Act of 1903 which governs the amendment reads:—

"In the case of the sale of an estate, advances under the Land Purchase Acts may be made for the purchase by any trustees approved of by the Land Commission of any parcel of the estate held subject to the provisions of this Act, for the purposes of turbary, pasturage, the raising of sand or gravel, the cutting or gathering of sea weed, the planting of trees or the preservation of game, fish, woods or plantations."

It is amended by this present Bill to include the tillage. There is nothing controversial in that and it is merely a technical amendment to include all the trustees in the provisions of this Bill. Some of them might be excluded if we were to leave the word "persons" in alone. I am proposing to include the word "body" as well as "persons"

Mr. HOGAN: This is a necessary amendment and I accept it. In the operations of the Land Commission it may be found expedient to make advances to bodies as well as to persons, and we are including the word "bodies" for that reason.

Amendment put and agreed to.

Mr. HENNESSY: In the absence of Deputy de Roiste I wish to move: In Sub-section (1) to insert before paragraph (a), line 21, a new paragraph, as follows:—

"(a) A person whose holding has been acquired by the Land Commission for the reinstatement of the former tenant thereof or his representative."

AN CEANN COMHAIRLE: I wish to ask the Deputy if he happens to know whether the person mentioned in the proposed amendment will occur anywhere else in the Bill.

Mr. HOGAN: Yes there is an amendment further down.

Mr. HENNESSY: This is on the same principle as the amendment which was moved under Section 21 on the previous evening. The Deputy considered that the Land Commission should be invested with certain powers to investigate all cases of evicted tenants, and many of those claims date further back than 1878. If the Land Commission is

to deal with those claims it would be necessary that they should also in this Section be empowered to get advances under Section (28). Section 53 runs in the same direction.

Mr. HOGAN: "A person whose holding has been acquired by the Land Commission for the reinstatement of the former tenant thereof or his representative." That is the amendment, and the next amendment is to delete lines 26 and 27 in Sub-section (1) (c) and to insert in lieu thereof "a person who was heretofore the tenant of a holding." That has not yet been moved. We may as well deal with the two together. The Deputies will note that there is an Amendment No. 60 in the name of Padraic O'Maille. "In selecting persons under this paragraph the Land Commission may have regard to the cases of persons who, or whose predecessors in title, have been evicted from their holdings in consequence of proceedings taken by or on behalf of the landlord, and who are not included in paragraph (c) above." There is also an amendment to the same Section in the names of Deputies Johnson, O'Maille and others, No. 57: "In Sub-section (1) (c), line 30, to delete the words 'in ejectment for non-payment of rent.'" I am accepting Amendment No. 57 and also Amendment No. 60. In the Section as amended the word "bodies" will be added after "persons" and it will go on in accordance with Amendment No. 60.

"In selecting persons under this paragraph the Land Commission may have regard to the cases of persons who, or whose predecessors in title, have been evicted from their holdings in consequence of proceedings taken by or on behalf of the landlord, and who were not included in paragraph (c) above." The effect of all that is to make it mandatory on the Land Commission to deal with evicted tenants since 1878. If the Land Commission succeed in completing that work, they will surprise me. There is no use in making promises that we cannot carry out. We will do our very best, and if we do that we will be doing more than most people think it possible the Land Commission will be able to do. We cannot right all the wrongs that have been done. That is absolutely impossible, but we will do our best. In the event of any obviously good case which, for

technical reasons, would not come within the 1878 ruling, it is provided in the amendment I have read that the Land Commission may have regard to cases of persons who, or whose predecessors in title, have been evicted from their holdings in consequence of proceedings taken by or on behalf of the landlord. That means that the Land Commission must deal with tenants evicted since 1878, and may take into account, as special qualifying circumstances, the fact that a tenant was evicted before 1878. That is all we can do. Everyone who understands the evicted tenants' question, will realise that if we succeed in doing anything like what we promised we will do, we will be doing a lot. There are some amendments here that it would be really a misuse of language to describe as absurd. I cannot think of any other word. Take, for instance, Amendment 53, which suggests deleting lines 26 and 27 in Sub-section (1), and inserting words which would make the Sub-section read: "A person who was heretofore the tenant of a holding to which the Land Purchase Acts apply." I believe there is an amendment later on to the effect that in the event of this person or his representative preferring to take money to land, he should get it. In the event of his preferring to take money, we may have to go back to the time of Niall of the Nine Hostages, or the time of Brian Boru. Nice legal questions will arise as to whether some of the ancient Irish chieftains, who advanced on their neighbours with clubs or spears, were really taking proceedings for ejectment against occupants of holdings, and whether those persons would be effected by the amendment. There are about one million representatives of Irishmen in Chicago, Poland and France, and for that matter all over the world. We are to send them out say, £1,000 each, the price of a good economic holding. That is the meaning of amendments which responsible Deputies have put in connection with this evicted tenants question. Fancy Deputies putting in amendments like those. Men capable of putting in amendments like those are utterly irresponsible. Even if the amendments were inserted in the Bill, they would mean nothing. They are not meant seriously to be put into practice, and 75 per cent. of the talk we hear about evicted tenants is purely opposition. It is, if I may say so, insincere.

[Mr. Hogan.]

We are doing all we can for evicted tenants, first of all by specifying the limit of 25 years prior to the 1903 Act, and then giving the Land Commission a discretion, in the event of any case, for technical reasons, falling outside those limits, to deal with the persons concerned and regard the eviction of themselves or their ancestors as a special qualification.

Mr. HENNESSY: I think the Minister has overlooked the fact that sentiment has been carrying us a long way in this country for some time past, and I suppose it will continue so for some time to come. Naturally, we would all like to get back the homes of our fathers, grandfathers, or great grandfathers. It would be much better than giving them to people from outside.

Mr. WILSON: I would like to know from the Minister, seeing he has doubts as to having a sufficiency of land to deal with congestion and evicted tenants, to whom would he give the preference? Will he settle congestion first and then deal with evicted tenants, or will he give an equal share to both parties, and divide any available land as well as he can?

Mr. HOGAN: I will not have the giving of the land; but I expect the Land Commission will, of course, deal with congestion first. At the same time I have no doubt that after having dealt with congestion, there will be a considerable amount of land available for deserving evicted tenants or their representatives. The fact is that under this Bill we have power to take holdings from tenants, and if some of these people were not evicted, but were in possession of their holdings at the moment, we might be taking those holdings from them for the purpose of relieving congestion.

Mr. HENNESSY: Deserving evicted tenants, in my opinion, have a prior claim.

Mr. McGUINNESS: With a view to meeting the difficulty of a shortage of land, I suggest that large ranchers and landholders should have their acreage reduced, and a man holding 150 acres should not be allowed the possession of any more, if there were congestions in the vicinity of evicted tenants who required land.

Mr. HOGAN: Section 27 provides the limitation of advances. We passed that

Section in Committee, and I thought Deputies would know about it.

Amendment put and declared lost.

AN CEANN COMHAIRLE: I hope I understand the next three amendments clearly. Amendment 53, I take it, means that the Land Commission can go back any distance, even to the time, as the Minister for Agriculture suggested, of Niall of the Nine Hostages.

Mr. HENNESSY: If the Land Commission deem it necessary.

AN CEANN COMHAIRLE: Amendment 54 means that we go back 70 years from the Act of 1903—back to 1833. Amendment 55 proposes to go back to 1860. The proposal in the Bill is to go back to 1878. The Amendments are in proper order.

Mr. HENNESSY: I move Amendment No. 53:—

“To delete lines 26 and 27 in subsection (1) (c) and to insert in lieu thereof ‘a person who was heretofore the tenant of a holding.’”

I do not say that every case of an evicted tenant, or that every imaginary claim or alleged claim should be investigated by the Land Commission or by any other authority. I do not put forward a claim like that, which would be a silly claim. If I were to put forward a claim like that, very possibly I would be looking for a farm myself, and I hardly think there is any Deputy in the Dáil who, in that event, would not be looking for a farm somewhere or other. I do say that the Land Commission should have power to investigate claims put forward. We know that there are hundreds of unsound claims put forward, and no Land Commission could deal with all these, but there are claims that should not be confined to the twenty-five years limit. Other Deputies as well as myself have received letters during the past month from people all over the country, some of whom I know to be really deserving, and I think they should be investigated.

I think the Minister's reply to the previous amendment is most satisfactory, and I think Deputy O'Maille's amendment will satisfy us.

AN CEANN COMHAIRLE: Then this amendment 53 is withdrawn?

Mr. HENNESSY: I think I will withdraw it.

Amendment, by leave, withdrawn.

Amendment by Uáitéar MacCumhaill: In Sub-section (1) (c), line 26, to delete the figures and the word "25 years," and to substitute therefor the figures and word "70 years," not moved.

Mr. JOHNSON: I beg to move:—

"In Sub-Section (1) (c), lines 26 and 27, to delete the words "within 25 years before the passing of the Irish Land Act, 1903," and to substitute therefor the words: "since the passing of the Irish Land Act, 1860, (23 and 24 Vic., cap. 154)."

The object of this amendment was to bring the period back to the date when the modern movement, at least for eviction, began under the Deasy Act. That seemed to be the beginning of what might be called the preliminaries to the Land League, and it seems to be a natural starting point. I admit that the amendment which the Minister has proffered to accept goes a long way to meet the case. Nevertheless, I think that the proposal should begin after the passing of the Land Act of 1860, which does really date the period which led to the passing of the 1881 Act. If the Minister resists this, I am not going to press it in view of the agreement to accept amendment No. 60 and 57. He accepted those two, and they meet the case to a very great extent.

Mr. HOGAN: I am quite certain that we are indicating as much as we can possibly do in sub-section (c) as amended, taken together with sub-section (e) as amended. We are putting into this Act as much as could possibly be done. We could accept that, but we could not do it. That will enable us to deal with all genuine cases for the twenty-five years before 1903. That will enable us to try to pick out the deserving cases and to deal with them. It will enable us to deal with the border line cases.

Amendment withdrawn.

Amendment:—"To delete all from the word 'was,' Sub-section (1) (c), line 28, to the word landlord," line 31, inclusive, and to insert in lieu thereof the words "is not now the occupier or owner of that holding."—Liam de Róiste. Not moved.

Mr. JOHNSON: I beg to move: "In Sub-Section (1) (c), line 30, to delete the words "in ejectment for non-payment of rent."

Mr. HOGAN: I am accepting this amendment.

Amendment put and agreed to.

Mr. J. BURKE: I move: After Sub-Section (1) (d), to insert a new paragraph as follows: "trustees for the purposes mentioned in Section 4 of the Irish Land Act, 1903, as extended by this Act."

Mr. HOGAN: I accept that.

Amendment put and agreed to.

AN CEANN COMHAIRLE: The next amendment is consequential on that. It reads "in Sub-section 1 (e) to insert in line 38, after the word "person," the words "or body."

Amendment put and agreed to.

Amendment by Pádraic O Máille:—"Immediately after sub-section (1) (e) to insert a new paragraph as follows:—"In selecting persons under this paragraph the Land Commission may have regard to the cases of persons who, or whose predecessors in title, have been evicted from their holdings in consequence of proceedings taken by or on behalf of the landlord, and who are not included in paragraph (c) above."

PADRAIC O MÁILLE: Is maith liom-so an leas-rún so do tharaisgint, agus sílim gur leas-rún é go mba cheart do'n Dáil glacadh leis. Déanfaidh fé deagh-shocrú ar chúis a lán daoine gur serios na tighearnaí taluham amach as an dtalamh a bhí acu féin, nó ag a n-athur-aca. Tá mórán acu san a bhí i gcuairt cás mar gheall ar an ndibirt a cuireadh orra. Is féidir le Comisiún na Taluham iad a thabhairt ar ais arís.

I beg to propose this amendment. I think it is a very essential amendment, because there is a number of cases of great hardship of people who suffered very much in the past through these evictions, and their immediate ancestors before them suffered. Deputy Ward on yesterday spoke about the wholesale clearances on the Glenbeigh Estate in Tírconail, and it would be possible in this Sub-section to bring most of those tenants who have *bona fide* cases under this Land Bill. There are other tenants about the country, too, that it will bring in. These and their

[Padraic O Maille.] immediate ancestors suffered harsh and unfair treatment at the hands of the landlord and it would be quite possible under this Section also to deal with their cases. I am glad that the Minister has agreed to accept this amendment.

Mr. WARD: With regard to this amendment, it covers the cases of people to whom I referred here the other day. The Land Commission is given power in those cases, and that is all that we require, that the power shall be there and that once the land passes into the hands of the Land Commission all these cases shall be adjudicated upon. There is a just claim.

Mr. HOGAN: After the Bill passes all the lands of Tírconnaill will be in the hands of the Land Commission and, as the Deputy says, under these sections we will have power to do what is asked for in this amendment.

Mr. FITZGIBBON: I think you ought to strike out the words "in title" after the word "predecessors." That deals with a person who is on the land. The people you are dealing with are people here who have no title. They only come in because their predecessors were evicted. I think you should say "sons who, or whose predecessors been evicted."

PADRAIC O MAILLE: I will that alteration.

Mr. HOGAN: I accept the amendment with the alteration.

Amendment, as altered, put and agreed to.

Mr. O'CONNELL: On behalf of Deputy Day and Deputy Davin I beg to move to delete Sub-section (2) and to substitute therefor the following:—

"A parcel to be purchased under the provisions of this Section shall not be vested in the person to whom the advance is made for a period of five years from the date of the advance, and if, within that period, such person fails to satisfy the Land Commission that he is using and cultivating the land in accordance with proper methods of husbandry, or if he applies for permission to sell, let, or assign the land, the parcel shall not be vested, but shall be resumed by the Land Commission, and an advance may be made for the purchase of the

parcel to some other person upon the like conditions."

I think that amendment is self-explanatory.

Mr. HOGAN: Amendments 61 and 62 are practically similar; their intention is the same. I am prepared to accept something like this; to add to Sub-section 2 "The agreement between the applicant and the Land Commission for the purchase of a parcel of land shall in all cases provide that the parcel shall not be vested in the applicant unless the Land Commission are satisfied that it is being worked by him in a husband-like manner, and that if the Land Commission are not so satisfied they may demand and recover possession of the parcel freed and discharged from any claim by the applicant." The Section would read something like this then:— "The Land Commission in deciding as to the suitability of applicants under this Section shall be satisfied as to their competence to work the land, and their intention to do so, and not to sell, let or assign it." Then I would add: "The agreement between the applicant and the Land Commission for the purchase of a parcel of land shall in all cases provide that the parcel shall not be vested in the applicant unless the Land Commission are satisfied that it is being worked by him in a husband-like manner and that if the Land Commission are not so satisfied they may demand and recover possession of the parcel freed and discharged from any claim by the applicant." That would give the Land Commission a certain amount of control over holding up the date of vesting, and between the date of the agreement and the date of vesting they would be enabled to satisfy themselves that the purchaser whom they had put on this parcel was likely to make a good farmer in the future. After the date of vesting they would have no control—none whatever. But from the date on which the agreement was entered into for the parcel up to the date of vesting they would have control. They would reserve control, and if before the date of vesting they came to the conclusion, from the conduct of the person who was getting the advance up to that date, that he was not a likely sort of farmer, they could eject him from the holding and resume possession. That is as far as we can go, and I think that would meet the

case. Deputies will have to remember that, of course, the Land Commission have power to prevent a man from sub-letting or sub-dividing his holding after vesting, so that they have power to see that the holding will be retained as an economic holding in the possession of the tenant.

Mr. GOREY: I presume the two amendments are being taken together. The only objection I see to the proposed amendment of the Minister is that there is no date mentioned. The vesting of the land may take place at any time after the man gets possession, and it may take place very quickly. There is no time of probation mentioned. The reason we put down our amendment is that men are likely to be put into holdings who have no agricultural training. My experience of land being divided is that in a good many cases the land was not farmed in anything like a proper manner. It was either continuously meadowed or let on the eleven months' system, and in many cases the men who got it were not suitable for working land, and they only held the land as a gamble until such time as the five years, or whatever limit it was, expired, and then sold it for whatever they could get for it. Some of these men had no intention of making a living out of the land, and it was simply wasted on them. It is to prevent such cases as that that our amendment is put down. It is very different from the previous amendment which Deputy Johnson took exception to. This amendment is meant to deal with men who have no experience of agriculture and never intended to make a living out of it. There should be a period of some years laid down to see if these men can make good. If, after a few years, a man has made good, and can satisfy the Land Commission that he intends to live out of the holding, then he should get his Vesting Order, but not until then. If the Land Commission are of opinion that he is not farming, and that he does not intend to make a living out of the land and is only treating it as a gamble, I think he ought to be dispossessed and the land handed over to somebody else, because we have any amount of men in the country who would make good if they got a chance. As a matter of fact, we have more men of that kind in the country than we can find land for. There is no use wasting

land on people who, to put it mildly, are not suitable for the occupation of land. I would be better pleased if there were a definite period of probation, say three or five years, inserted in the Minister's amendment, so that a man could show whether he was going to make good or not.

Mr. JOHNSON: I think the statement of Deputy Gorey would show that there are stages between the Minister and ourselves in moving this amendment. The Minister is prepared to insert a provision which will mean that the Land Commission must be satisfied as to the competence of the person in whom the land is to be vested before vesting. He does not say what the length of that period of probation shall be.

Mr. HOGAN: Not only satisfied of his competence, but that the holding is being worked in a husband-like manner up to the date of vesting.

Mr. JOHNSON: Deputy Gorey desires to fix a date, but that after that date the purchaser may relapse into ignorance and laziness and carelessness, and that there shall be no interference. We would prefer that that power to intervene might be retained so as to ensure that the good farming shall not be restricted to a short period, but that it shall be a continuous process—that there will be some assurance that the good habits of the farmer as a farmer may be continued in the son when he takes possession. I agree that the amendment suggested by the Minister does go some length to meet the arguments, but I do not think it goes far enough, and I would like a period to be stated, even if the Minister could not go as far as to accept the whole of the amendment put down by Deputies Day and Davin.

Mr. WILSON: I would like to know the condition of mind of a farmer's son who would be under a state of perpetual observation by the Land Commission in order to see whether he was tilling his land properly. I think the Minister's amendment meets the case. Although I would like to see some period inserted, still this provision would ensure that a farm is being farmed before it is vested. I would be opposed totally to any such thing as placing a man, after he gets a holding, under the perpetual observation of the Land Commission.

Mr. HOGAN: This is the amendment

[Mr. Hogan.]

which I favour. I must admit that there is not such a vast difference in principle between the policy which Deputy Johnson has outlined, and which the farmers disagree with, and this policy here which they are prepared to accept. There are some slight differences, but actually the principle is the same. There is very little difference in principle. There may be some arguments for confining this inspection up to the date of vesting, but the arguments that do apply to inspection up to the date of vesting apply, perhaps, with less force, but still they apply to some extent to inspection after the date of vesting. I am not in favour of inspection after the vesting, as I think the right way to get the best out of the land is to put the tenant purchaser on it under conditions which will enable him to put his best into it. I must observe that it is rather interesting that the differences of opinion over which there have been so much heat are really small. There is very little between the Farmers' Party and the Labour Party, if they thought this out. The reason I did not insert five years is this: There will be 75 per cent. of purchasers who will farm the land excellently for two or three years, obviously first-class men, and we should not hold up their vesting orders. I never thought I would hear arguments in the Dáil to delay vesting. I was prepared to hear arguments to the contrary, and to have it impressed on me that it was necessary to vest the holdings as soon as possible, and that one of the disadvantages of the previous Acts was that vesting was so long delayed. I certainly thought I would never hear an argument here in favour of delaying vesting. It is extraordinary how points of view change when applied to different problems. It would be unfair to hold up vesting in a very large percentage of cases where it is obvious that the purchasers of the land are good farmers or are going to be good farmers. It would be open to the Land Commission to hold up vesting if a man was not going on well, and perhaps hold it up longer than five years. That would meet the case Deputy Johnson puts up. It is not right to hold up vesting in the case where the purchaser is working his land properly and is likely to continue to do so.

Mr. GOREY: We do not mean to hold

up vesting, but we want the Government to retain machinery that gives them power for supervision for three or five years—not more than that. We think a man will show his worth in that time, and will have made good, or bad. We did not at any time purpose, as Deputy Johnson suggested, that the purchaser should be treated as a cart-horse and taken out and made do what others wanted him to do. That is what continuous supervision and compulsory powers really mean—that the man would be driven around between leading strings. I did not mean that vesting orders should be held up. The Minister has an amendment that meets our view, if three or five years were inserted.

Mr. JOHNSON: I assume the amendment represents the view of the Deputy who moved it when he says quite definitely that the leading strings shall apply for a period of five years, during which the holding shall not be vested. Is that definite or not?

Mr. GOREY: Definite so far as the amendment goes.

Mr. JOHNSON: That is to say, it was the meaning the Deputy intended when he wrote down the amendment. It is quite right that he should be allowed to change his mind in the course of a discussion. I think the Minister has met the case fairly well. I would like to ask him whether it would not be more in conformity with custom to use the same phraseology in the amendment he now proposes as is in Section 29, instead of "husband-like manner," which rather suggests the back streets of Dublin.

Mr. HOGAN: What do you suggest?

Mr. JOHNSON: The words in Section 29.

AN CEANN COMHAIRLE: The words are "proper methods of husbandry."

Mr. HOGAN: I am quite prepared to insert these words. I hope I will be pardoned for observing that if this Land Bill is before the Dáil much longer the Labour Party and the Farmers' Party will come very close together. Deputy Gorey has now suggested a certain amount of supervision even after vesting. He is approaching Deputy Johnson rapidly.

Mr. JOHNSON: There is hope for him yet.

Mr. GOREY: I mean from the time possession is given.

AN CEANN COMHAIRLE: This is the amendment the Minister proposes in place of Amendments 61 and 62:—
 “To add to Section 28, Sub-section (2): ‘The agreement between the applicant and the Land Commission for the purchase of a parcel of land shall in all cases provide that the parcel shall not be vested in the applicant unless the Land Commission are satisfied that it is being worked by him in accordance with proper methods of husbandry, and that if the Land Commission are not so satisfied they may demand and recover possession of the parcel freed and discharged from any claim by the applicant.’” In order to keep ourselves clear we will have to have Amendment 61 withdrawn and 62 not moved.

Mr. O'CONNELL: I beg to withdraw Amendment 61.

Amendment 61, by leave, withdrawn.

Mr. GOREY: I am not moving Amendment 62.

Mr. BURKE: I move the amendment suggested by the Minister.

Amendment put and agreed to.

Motion made and question put: “That Section 28, as amended, stand part of the Bill.”

Agreed.

SECTION 29.

Where the owner of a parcel of untenanted land which is vested in the Land Commission by virtue of this Act uses and cultivates the same as an ordinary farm in accordance with proper methods of husbandry; then

(a) If the price of the land does not exceed £3,000 the Land Commission shall, unless in their opinion it ought to be retained for improvement or enlargement or for utilization in connection with the relief of congestion, resell it to the owner at the said price, if before the appointed day he has undertaken to purchase it at that price; and

(b) if the price of the land exceeds £3,000 the Land Commission may resell to the owner either the whole thereof at the said price or any part thereof at a price bearing the same proportion to the said price which

the value of the part bears to the value of the whole of the parcel as ascertained by the Land Commission, but the advance shall not in any case exceed £3,000, the difference (if any) between the amount to be advanced and the price being paid in cash by the owner to the Land Commission.

Mr. BURKE: I move: “To delete the word ‘land’ in line 61, page 11, and in line 5, page 12, and to insert in lieu thereof the words ‘parcel together with the value of any other lands in the possession of the owner as ascertained by the Land Commission,’ and in line 2, page 12, to delete the word ‘it’ and to substitute the word ‘parcel.’” The object of this amendment is to put a person all of whose land comes within the purview of this Bill in the same position as a person only part of whose land comes under it for the purpose of this Section. I think this amendment is very necessary in the interests of equity.

Amendment put and agreed to.

Amendment by **Mr. BURKE:** “To insert after the figures ‘£3,000’ the words ‘unless in the opinion of the Land Commission it is expedient that this amount should be exceeded.’”

Mr. BURKE: This is more or less a consequential amendment.

Amendment put and agreed to.

AN CEANN COMHAIRLE: Amendment 65 is not moved.

Motion made and question put: “That Section 29, as amended, stand part of the Bill.”

SECTION 30.

Where in the case of a holding retained by the Land Commission, the Land Commission do not exercise their powers of resumption or if they exercise their powers of resumption in respect of only part of the holding, then if the tenant has used and cultivated the holding as an ordinary farmer in accordance with proper methods of husbandry, the Land Commission may resell to the tenant the holding at the standard price, or any part thereof not resumed at the proportionate part of such price applicable thereto as determined by the Land

Commission, and may make an advance for the purpose of the purchase not exceeding such sum as with the amount of the advances, if any, whether redeemed or not, which may already have been made under any of the Land Purchase Acts for the purchase of lands of which the tenant is the proprietor at the date of such resale, does not exceed £3,000, the difference (if any) between the amount to be advanced and the price being paid in cash by the tenant to the Land Commission.

AN CEANN COMHAIRLE: It was mentioned that in Section 30 there would be an amendment consequential upon Amendment 47. Where does it come in?

Mr. HOGAN: It comes in in line 25, to delete the word "of." The amendment I would ask the leave of the Dáil to move would be this: "To delete the word 'of,' and to insert 'obtained by capitalising at the rate of 4½ per cent. the original annuities payable on the advance.'"

Mr. FITZGIBBON: Would the Minister, between this and the next stage, look into the word "original," because I fancy that there might be some annuities that have been subjected to decadal reductions, and therefore to make it quite clear that it is the actual annuity being paid at the moment, and not the original annuity?

Mr. HOGAN: I had that point in mind, and it was in view of that that I used the word "original."

AN CEANN COMHAIRLE: Deputy Burke moves this as a consequential amendment to 47.

Amendment put and I to

Mr. BURKE: I move: "To insert after the figures '£3,000,' the words 'unless in the opinion of the Land Commission it is expedient that this amount should be exceeded.'" This is consequential.

Amendment put agreed to.

Motion made and question put: "That Section 30, as amended, stand part of the Bill."

Agreed.

Section 31 agreed to.

SECTION 32.

The Land Commission may purchase any untenanted land which they consider necessary for the purpose of providing parcels of land for any of the persons to whom advances may be made under the provisions of this Act, for such price, payable in 4½ per cent. Land Bonds of equal nominal value, as shall be agreed upon between the owner of such untenanted land and the Land Commission, and such land when vested in the Land Commission shall be subject to all the provisions of this Act relating to the providing of parcels of land for the persons aforesaid.

Mr. BURKE: I move: "To insert after the word 'persons' the words 'or bodies.'" This is consequential on an amendment to Section 28.

Amendment agreed to.

Amendment by Messrs. O'Callaghan and Colohan:—

In line 58, after the word "Commission," to insert the words "or, in default of agreement, as shall be fixed by the Land Commission (other than the Judicial Commissioner), or by the Judicial Commissioner on appeal from the Land Commission, regard being had in the fixing of the price to the fair value of the land to the Land Commission and the owner respectively."

Mr. O'CALLAGHAN: I formally move the amendment. This amendment should be inserted after the word "Commission" on line 57, and not on line 58. The Section as it stands provides machinery where there is agreement between the owner of untenanted land and the Land Commission. The amendment provides machinery where there is no agreement, or where there is a conflict, and there may be a considerable block in the purchase if this machinery be not provided.

Mr. HOGAN: I could not accept that amendment. I think I explained the reasons before. The Bill takes power to take up compulsorily, and in fact automatically, all lands required for the relief of congestion or for facilitating the resale of untenanted land. The immediate operation of that would be to take up all untenanted land in the congested counties. That would be immediate under

the operation of the Bill, so that it would be necessary to take up practically all the untenanted land elsewhere also for the relief of congestion, or otherwise to facilitate the resale of untenanted land. As I say, this Bill deals not only with congests but with evicted tenants, and it also provides for advances to evicted men. We want to have it perfectly clear that congests have the first claim, and we want to obviate as far as possible any difficulties that are in the way of dealing with the relief of congestion. If we started out to take power, in the first instance, to acquire land compulsorily for landless men, we would find that the Land Commission would be faced with an organised demand to take land here, there, and everywhere for landless men, who are more numerous and who have more influence and, perhaps, organising ability than the ordinary congested tenant, and probably before they quite realised what they were doing the Land Commission might find itself in the position of having to acquire land for landless men which later they might find necessary for the relief of congestion. It is only as the Act begins to operate that it will become clear whether or not it will be necessary to acquire land for the relief of congestion. There are congests on practically every estate in Ireland. There are so many congests in the congested districts that it would be necessary to acquire land outside of these districts for them. Nevertheless, we will be able to deal with considerable numbers of landless men and evicted tenants in congested areas, because we will find, as the Bill is put into operation, that it will be more suitable, perhaps, to migrate congests to lands outside the areas than to put them inside. That has been the experience in the operations of the 1903 Act. There are congests on practically every estate in Ireland. When the Land Commission require land for a few congests, they might buy a parcel of five hundred, six hundred, seven hundred, eight hundred, or a thousand acres, or whatever acreage is contained in any one title. They can deal with these few congests, and they can give the balance to the evicted tenants or the landless men. That arrangement preserves the proper sequence, and it is made quite clear that we owe our first obligation to the congested tenants, and that we are prepared to withstand any pressure that may

come to deal with the more numerous and less deserving class in the first instance. I expect myself that practically all the available untenanted land will be acquired compulsorily under previous sections, and the only reason why this is put in at all is that the landowner may find himself left with a certain amount of land which he may wish to sell voluntarily to the Land Commission, but which you would not take under any circumstances. I want to put the Land Commission into the position to buy that and pay for it in Bonds, and without this Section they could not do so. I think the operation of the Act will prove that this will be the only function of this Section. The other available land will be taken up under the compulsory clause.

Mr. WILSON: All the land is untenanted land under this Bill. I should like to know whether in respect of every holder of land who pays an annuity to the Land Commission if, under this Bill, that land is not untenanted land.

Mr. HOGAN: I am not quite clear as to what the Deputy wants to know.

Mr. WILSON: I want to know if a man holds land in the Province of Connaught in a congested district, and is paying an annuity to the Land Commission under the terms of this Bill, is he not a holder of untenanted land?

Mr. HOGAN: No.

Mr. FITZGIBBON: He is a holder of untenanted land, excluded by Section 21, 2 (a).

Mr. HOGAN: But not for the purposes of this Act. Section 21 deals with the question, and it specifically excludes land which has been purchased under other Land Acts.

AN CEANN COMHAIRLE: Yes, Sub-section 2 (a).

Mr. HOGAN: Yes, there is a proviso. Notwithstanding anything contained in the foregoing sub-sections, where the Land Commission before the appointed day declare in the prescribed manner that any land wherever situated, hereinbefore excluded from the operation of this section (other than land which comes within the description in Clause (c) of sub-section (2) of this section) is required for the purpose of relieving con-

[Mr. Hogan.]
gestion, then such land shall vest in the Land Commission pursuant to this section." That means that holdings that have already been purchased will not vest automatically in the Land Commission; like untenanted land, they could be acquired afterwards if it is found that the land which vests automatically in the Land Commission is not sufficient for the relief of congestion.

Mr. GOREY: And would the tenant of this particular property get land elsewhere?

Mr. HOGAN: Yes.

Mr. WILSON: Will the annuitants in the congested area in Connaught first have their land taken before you proceed to another province? Would not that be the proper thing?

Mr. HOGAN: I should imagine the Land Commission will take the first cases first, wherever urgent, whether in the congested areas or areas outside the congested districts. No one could say now where they would begin. The events of the next three or four months, and the result of their operations in connection with estates between this and the appointed day, will probably enable them to make up their minds where they should begin. They will probably be operating in different parts of Ireland at the same time.

Mr. JOHNSON: The intention of this amendment was to complete, as was thought, the wish of the Minister. "The Land Commission may purchase any untenanted land they consider necessary for the purpose," and so on; that is if they consider it necessary, and the parcel of land which is in question is owned by a man who is not prepared to enter into an agreement regarding price, then the Land Commission's intention is frustrated, and there is no machinery of any kind whereby what the Land Commission thought is necessary can be carried into effect. The object of the amendment was to assist the Land Commission to have certain machinery at its disposal; inasmuch as the Minister thinks no machinery is necessary there is no occasion to press the amendment.

Mr. HOGAN: The Land Commission may purchase any untenanted land which they consider necessary for the

purpose of parcelling land. Assuming a man holds 150 acres of land in fee farm grant, farming it as an ordinary farmer, and comes to the Land Commission and says, "I will sell you this land, as I do not want it," the purpose of this section is to enable the Land Commission to buy such farm if they consider it is necessary for the purpose of making advances to the various parties whom I mentioned. It would be necessary, but at the same time nobody would take up 150 acres of fee simple land held by an ordinary farmer, compulsorily. He would be entitled to farm that land, and he should not be put at a disadvantage by reason of the fact that he happens to own land in fee simple any more than his neighbour who owns 200 acres subject to an annuity. I want to put the Land Commission into the position that if such an owner offers to sell they can buy his land and give it to the landless men, and pay for it in Bonds.

Mr. O'CALLAGHAN: After listening to the explanation of the Minister, I wish to withdraw the amendment.

Amendment, by leave, withdrawn.

Amendment (69) by Liam de Roiste:—
To add a Sub-section as follows:—

"Where a former tenant of a holding or his representative is ascertained in the prescribed manner to be entitled to re-instatement, or to an advance to purchase other land, but from other cause it appears that a money grant would be a more equitable compensation, the Land Commission may ascertain and award such compensation in the prescribed manner, and the source or sources from which the same is to be provided, and moneys to be provided under Section 58 may be used to pay such compensation in whole or in part, or for the purchase of land under this Section."

AN CEANN COMHAIRLE: Amendment 69 involves a considerable expenditure of money. I would like Deputy de Roiste to explain that. There is one thing in the amendment, "The Land Commission may ascertain and award such compensation in the prescribed manner, and the source or sources from which the same is to be provided."

Mr. DE ROISTE: I ask leave to withdraw that amendment.

Amendment not moved.

Motion made and question put : That Section 32, as amended, stand part of the Bill.

Agreed.

Section 33 agreed to.

SECTION 34.

Mr. GOREY: I beg to move—

“To insert before Section 34 a new Section as follows :—

In the case of any holding, purchased under a previous Land Act, which is still subject to a superior interest or other charge existing from before the time of the said sale under the Land Acts, the redemption price of such charge shall, on the application of the registered owner of the holding, be determined by the Judicial Commissioner, and shall be paid off by the issue to the owner of such charges of $4\frac{1}{2}$ per cent. Land Bonds, as in manner prescribed by Section 3 of this Act, and the amount thereof shall be deemed to be an advance made under this Act, and shall be repayable by means of an annuity to be charged upon the lands, and consolidated with the existing purchase annuity, if any. The contribution of price shall not be payable in respect of any transaction under this Section.”

This is an amendment to deal with a remarkable situation—a situation that even some of those responsible for the Bill were not aware of. In different parts of Ireland land is still subject to tithe rents and superior interests. We want these interests bought out under this Bill, and a period put to the payment of these interests; otherwise the land question is not settled. I would like to hear the views of the Minister on this question.

An Leas-Cheann Comhairle took the Chair at this stage.

Mr. HOGAN: That is in a manner prescribed by Section 3 of this Act. I am in sympathy with the principle of this amendment, but as it is drafted it might mean that the annuity would be much larger than the fee farm rent. The fee farm rents, as a rule, are very small. We are really dealing here with untenanted lands which, in most cases, the ordinary owner would be selling, and not buying.

Generally, of course, they are small holders, but under the Act they would be actually selling to the Land Commission in the ordinary way. As I say, I am in sympathy with the principle of the amendment. If we ask the Land Commission to redeem these rents, they may come down on the holding, and regard it as tenanted land, and fix a price. If they adopted anything like the principle adopted in fixing a fair rent, and based their price on that they might fix a price on which the interest would be considerably higher than any fee-farm rents, because fee-farm rents are extremely low; in some cases they would not be more than three or four shillings an acre.

I am suggesting an alternative amendment which, I think, meets the case Deputy Gorey has in mind. It reads :—

“Where a holding has at any time been vested in a purchaser under the Land Purchase Acts, subject to a superior interest or charge the Judicial Commissioner shall, on the application of the proprietor after hearing all persons concerned, order the redemption of the said interest or charge, and all interests superior to them, and fix the redemption price thereof. The redemption price so fixed together with such costs as may be allowed by the Judicial Commissioner shall notwithstanding the provisions contained in subsection (4) of section 9 of the Purchase of Land (Ireland) Act, 1891, be advanced and paid by means of $4\frac{1}{2}$ Land Bonds, and distributed by the Judicial Commissioner as if the redemption price were the purchase money of lands vested in the Land Commission under this Act. The advance shall be repayable by the proprietor of the holding by means of an annuity calculated at the rate of $4\frac{1}{2}$ per cent. on the amount of the advance, and the said annuity shall be consolidated so far as circumstances permit with the existing purchase annuity (if any) to which the holding is subject.”

We are approaching it from the point of view of redeeming the rent, and that is I think what is in Deputy Gorey's mind.

Mr. GOREY: Not exactly. There is the peculiar position that where purchased agreements have been already come to, and annuities paid in pursuance of those agreements the lands are still

[Mr. Gorey.]

subject to these head charges. It is an extraordinary thing, I never heard of it until it was brought to my knowledge in the counties of Cork and Limerick. I believe Deputy Wilson has evidence of it in some cases in County Dublin. My amendment makes the matter clear in the case of holdings purchased under previous Land Acts which are still subject to these superior interests. There are, and I think it is news to the Minister to know it, some special cases of land already purchased but still subject to these head charges. At one time I did not think that was possible, but it is so and it cannot be disputed.

Mr. DAVIN: I desire to support the case put forward by Deputy Gorey, because I am aware that in my own area there are several cases of this kind. I have a letter from one individual in this peculiar position. He has tried to make an agreement with the head landlord, but without result. I think the amendment moved by Deputy Gorey would relieve many people from obligations of that kind by leaving it in the hands of the Judicial Commissioners to fix what will be a fair figure at which to get rid of these head charges to which the Deputy has referred.

Mr. HOGAN: As I say, I am in sympathy with the principle of this amendment. We agree, at any rate, that the question should be settled and I think we would be able to settle it on Report Stage.

Mr. GOREY: I was going to suggest that.

Mr. O'DONNELL: There is another point which touches upon this that I would like to mention. I spoke to the Minister about it and he, certainly, gave me satisfaction, but there is still another point I wish to be clear about. There are tenants who are still unpurchased who have a big lot of turbary within the ambit of their holdings. Formerly, about twenty-five or twenty-six years ago, the landlords got no rent whatever for bog. There was a big area of bog and the tenants had the grazing rights of it and anybody could cut turf anytime and any where. Bogs then got scarce outside this area and a lot of people came in, with the result that the landlord is getting

more now in payment for bog than he got for rent before. Even after we had Land Acts passed and Judicial reductions took place in the Land Courts, the landlord continued to get money for the bogs on the tenant's holding. The landlord claimed the mineral rights and is getting more rent from turbary, as a mineral right, than he got previously as rent from the land. When we come to this I would ask the Minister to consider what price should really be paid for these bogs. This is a matter that will apply to the bogs in general, and I would like to bring it forward in order that the Minister might be able to open up all these large tracts of bog so that when people want to cut turf they may be able to get it. Turf is a great necessity in the country. I would ask the Minister to see that all tenants have a right to get turf.

AN LEAS-CHEANN COMHAIRLE:

A discussion on that matter cannot be raised on this particular amendment.

Mr. HOGAN: I will read Section 23 for the Deputy: "The powers of the Land Commission to acquire compulsorily any untenanted land shall be extended to include power so to acquire any bog whether the same is or is not subject to any right of turbary of other persons than the owner, and whether or not an advance under the Land Purchase Acts has been made for the purchase of lands including such bog, and if made, whether redeemed or not."

Then you have Section 36 which says:—"The powers of the Land Commission to make regulations with respect to turbary on bogs on holdings shall be extended so as to include power to make regulations with respect to turbary on any bog, whether the owner thereof has or has not an exclusive right of turbary thereon, and so as to include power of defining the area on which the owner may cut turf and to make regulations conferring and defining rights of access to and through the bog over any land for the purposes of turbary."

I think that meets the point.

Mr. GOREY: In view of the statement of the Minister on my amendment I ask leave to withdraw it.

Amendment, by leave, withdrawn.

Question—‘That Section 34 stand part of the Bill,’ put and agreed to.

Sections 35 and 36 put and agreed to.

SECTION 37.

(1) Where it appears to the Judicial Commissioner that any watercourse, drain, embankment, or other work has, prior to the appointed day, been cleansed or maintained in whole or in part by or at the expense of the landlord, or in the case of untenanted land the owner, either alone or in conjunction with other persons, and whether under terms of contract of tenancy or otherwise, he may direct that out of the Land Bonds representing the purchase money there shall be transferred and applied in manner hereinafter provided, Land Bonds sufficient to yield an income equivalent to the average annual expenditure incurred by a landlord or owner in such cleansing or maintenance during a period of ten normal years.

(2) Land Bonds so ordered to be transferred and applied shall be transferred to the Public Trustee, and the income shall be applied in or towards the cleansing or maintenance of the watercourse, drain, embankment, or other work in accordance with a scheme to be framed by the Land Commission which may if thought fit authorise the sale of the said Land Bonds or the investments for the time being representing the same or any part thereof and the application of the principal moneys arising from such sale in or towards the reconstruction of such work.

(3) The Land Commission shall have power to determine all questions in connection with watercourses, drains and embankments, and the cleansing and maintenance thereof, and to define or prescribe the rights, obligations, and liabilities in relation thereto of all parties.

(4) The Land Commission shall have power to enter on any lands for the purpose of cleansing, repair maintenance or restoration of watercourses, drains, embankments, or other works, and to take such soil and materials therefrom, and to do such things thereon as may be necessary for the said purposes.

(5) The Land Commission shall have power in their discretion to expend in or towards the reconstruction of any watercourse, drain, embankment or other work a sum to be advanced by the Minister for

Finance at their request out of moneys to be provided by the Oireachtas, and so much of such sum as the Land Commission certify in that behalf shall be repayable by means of an annuity or annuities charged upon any land, which the Land Commission certify to have been benefited by such expenditure, as if the said sum had been advanced for the purchase of the land in pursuance of a subsequent purchase agreement, the said annuity to be consolidated, so far as circumstances permit, with any existing Land Purchase annuity to which the land is subject.

Mr. GOREY: I beg to move the following amendment to the Section :

In Sub-Section (1), line 28, to add after the word “embankment” the word “foreshore,” and in line 36 to delete the words “Land Bonds sufficient to yield,” and to substitute therefor the words “such amount of Land Bonds as will be adequate to place the said works in repair and in addition to provide.”

We want to have this amendment inserted in the Bill because, in a good many cases where landlords had liabilities with regard to foreshore and embankments, they have been neglected for the last fifteen or twenty years, and at present are in a very bad condition indeed. I know in the case of an embankment on the River Barrow, that the money set aside under the purchase agreement for its maintenance has been exhausted, and now the question of its maintenance rests between the tenants and the Land Commission. I might say that before the money was set aside for its maintenance the bank was not in a proper condition, with the result that the amount set aside is altogether inadequate for its maintenance. We want to have these embankments, and the water courses, maintained in a proper condition, and the object of the amendment is to have reasonable safeguards provided for that purpose. We suggest that it is only fair, because the property that is being sold is the property of the landlord, and if the property has deteriorated, owing to the neglect of the water courses or the embankments, the money required to put them in a proper condition again ought to be provided out of the proceeds of the sale of the property. Otherwise, the State will have to assume a huge

[Mr. Gorey.] responsibility which, I suppose, would fall ultimately on the tenants.

Mr. McGOLDRICK: I rise to support the amendment because it proposes to deal with a matter in which the people in my area are vitally concerned. When the landlord is being purchased out, he must be purchased out on conditions that applied in the past as regards his obligations to maintain embankments. This is a matter that concerns not only the people in my area, but a great many others as well. When the landlord is bought out, there should be deducted from the amount payable to him a sum sufficient in Land Bonds to ensure that his obligations in the past will be fulfilled in the future and so that protection will be afforded for the tenants who acquire that property. In the past, the landlords were bound to comply with a condition of that kind. We have a very important question of that sort in our area, and it applies to a great many people. The landlord now is under no obligation to keep the embankment, or at least the greater portion of it in repair, so as to protect the interests affected by these embankments. That is a matter, I think, that must be watched very carefully by the Land Commission, who must have power to deduct from the landlord, or rather from the purchase price, a sufficient sum in Land Bonds to continue in the future the protection afforded in the past by the landlords on these embankments. The Land Commission should see that the whole responsibility will not be thrown on the tenants, and that this obligation of the landlord in the past will not be overlooked in carrying out the purchase transactions.

Mr. MacBRIDE: I do not see what relation "foreshore" has in regard to this question. I think Deputy Gorey does not understand what that word covers. It might cover an extent of seashore a mile broad.

Mr. GOREY: I mean on tidal rivers, such as the Shannon.

Mr. HOGAN: I do not think Deputy McGoldrick quite realises the nature of

the amendment. I will read the Section for him: "Where it appears to the Judicial Commissioner that any water-course, drain, embankment, or other work has, prior to the appointed day, been cleansed or maintained in whole or in part by or at the expense of the landlord, or in the case of untenanted land the owner, either alone or in conjunction with other persons, and whether under the terms of a contract of tenancy or otherwise, he may direct that out of the Land Bonds representing the purchase money there shall be transferred and applied in manner hereinafter provided, Land Bonds sufficient to yield an income equivalent to the average annual expenditure incurred by the landlord or owner in such cleansing or maintenance during a period of ten normal years."

That provides that out of the purchase money there shall be set aside "Land Bonds sufficient to yield an income equivalent to the average annual expenditure incurred by the landlord or owner in such cleansing or maintenance during a period of ten normal years." That is what Deputy McGoldrick was speaking in favour of, and it is in the Section. Deputy Gorey's amendment goes further, because it says to delete the words "Land Bonds sufficient to yield" and to add therefor the words "such amount of Land Bonds as will be adequate to place the said works in repair and in addition to provide" (the Section to read on) "an income equivalent to the average annual expenditure incurred by the landlord or owner in such cleansing or maintenance during a period of ten normal years." That is to say, that not only should there be deducted, and be set aside from the Land Bonds, an amount sufficient to keep the embankment and the foreshore in repair, but that there should be set aside from the Land Bonds an amount sufficient to put them in proper repair to start with. The Deputy quoted the case of the Barrow. I suppose if you bought out two or three of the biggest estates adjoining the River Barrow, the total purchase money would not be sufficient to do even half the work that Deputy Gorey contemplates in his amendment. In practically every case, the work would eat up the whole of the purchase money.

Mr. GOREY: What about the Shannon?

Mr. HOGAN: The Shannon is in the same position as the case I have quoted. It may be that it was the landlord's fault, or it may be that it was not right at any time that the landlord should have had to keep the embankments on a river like the Shannon. No private individual could keep the river embankments of the Shannon or Barrow right. It would be quite impossible, and that is the real point in the case.

Mr. GOREY: That is true with regard to embankments, but I am urging the cases of watercourses and drains.

Mr. HOGAN: Your amendment includes "embankments" and "foreshore." As I have stated, to do work of that kind would take practically three times as much as the purchase money of the estate in most cases.

Mr. GOREY: I believe the word "foreshore" is too broad a term to use in this connection.

Mr. HOGAN: Under your amendment there is the question of maintaining the embankments, and that, I think, is really a matter for the State. If you do set aside, out of the price you give the landlord for the land, a sum sufficient to keep these things in repair, or in the repair they were kept in for the last ten years, then you are taking a big sum out of the purchase money, and you are doing as much at his expense as you should do. Anything further should be done by the State.

Mr. GOREY: The Minister, I think, has missed my point. It is all right to say that a certain sum of money has been expended on works of this kind during the last ten years, but I say that no money has been expended on them during that period, and they have been utterly neglected. This amendment applies to watercourses and drains and not to embankments, and I hold that they have been utterly neglected during the last ten years. No money at all has been expended on them.

Mr. HOGAN: I am sure that during the last two or three years at any rate the sum expended on them has been nil.

Mr. GOREY: I maintain that the period goes back ten years.

Mr. HOGAN: The words in the Section are "any watercourse, drain, embankment, or other work." That does not refer to the streams that flow through the tenant's holdings. If small streams of that character have been allowed to become choked, then really the tenant himself is to blame. The tenant who would allow a stream three feet wide to become choked on his farm and do incalculable damage, even though the landlord should have kept the stream cleaned, is really to blame himself. The tenant who would allow that to occur is as much to blame as the landlord, even though it is supposed to be the landlord's duty. Let us be clear. The section says "water course, drain, embankment or other work." That does not mean the ordinary stream you find flowing through a tenant's holding. I presume we are not disputing about that. Two men could do that in a day.

Mr. GOREY: I am not disputing about ordinary drains. I am dealing only with main water courses.

Mr. HOGAN: We are dealing then with the bigger water courses—the River Shannon and the Barrow and the Suck, and numerous other big rivers that take a lot of upkeep. We propose to set aside from the landlord's purchase money a sum to yield a sufficient income to keep the works in an average state of repair. We propose to do that in the Section, but the Deputy proposes to go further and to set aside, not only what would yield an income sufficient to keep them in repair, but to set aside an amount which would put them into proper order. In 99 cases out of 100 that would eat up three times the purchase money. On the Barrow or the Shannon or on any of the big rivers it would simply eat up the purchase money. It would be for the Land Commission to say, in all fairness, what ought to have been expended for the last 10 years in upkeep and to set aside a reasonable amount. The Land Commission are not going to force a landlord or a landowner to drain the Barrow or the Suck or any of these bigger rivers.

Mr. GOREY: I did not ask them

Mr. DAVIN: Deputy Gorey, in moving this amendment, referred to the Barrow. Everybody is acquainted with the conditions concerning the flooding of the Barrow. I would like to know what is to be given under this Clause to the tenants who, in order to save their land from flooding, made drains when in some cases that was the liability of the landlords. When the question of the Barrow and the Shannon, and the question of drainage generally, comes to be inquired into, the liability of the present owners of the waterways to maintain the embankments or drains will have to be inquired into. Tenants did a certain amount of work voluntarily which was really the landlord's work or the work of the people who owned or controlled the waterways. These are cases that should be taken into consideration when this matter is being considered by the Commissioners, and credit should be given to those people who have done work voluntarily in order to save their land from the flooding on the Barrow and the Shannon.

Mr. O'CONNELL: It will probably be necessary, in view of what the Minister has said, to introduce words into this Section to make it clear that the landlord who has neglected his work will not get off scot free in this matter. Otherwise it might happen that a landlord who spent £50 per annum during the last 10 or 15 years on these works would have stopped out of his purchase money a certain amount of bonds to produce that £50, whereas another landlord who expended no money and did no repairs would have nothing stopped out of his purchase money. It should be made quite definite that it will be within the power of the Land Commission to say what would have been a reasonable sum to expend in the upkeep of such works, and that a certain amount should be stopped from the purchase money of such a landlord to provide for the work which he should have done.

Mr. GOREY: A good many of these properties are only valuable by reason of the condition in which the water courses are kept. Kept badly, the lands are valueless. I would like to know what will be the position in regard to foreshore rights. Where tenants' property abuts on the foreshore, will the landlord still have the right to the sea front and to

the seaweed, which is very important in certain districts of the country? Personally I am not interested in it, and I know very little about it, but it would be well that the right should be defined. I know big tracts of the Midlands where drainage has been neglected and the water courses neglected. Down in Kildare and Queen's County—

Mr. HOGAN: On a point of order, the Deputy should draw attention to these matters on Report. We are on a specific section now, and if we get away from specific sections we will never get through with the Bill.

Mr. GOREY: In line 37 of this Section it says "Land Bonds sufficient to yield an income equivalent to the average annual expenditure incurred by the landlord or owner." I know a case where there has been no expenditure at all for the last 10 years, and the work is absolutely defective.

Mr. HOGAN: I will undertake to put in words to meet the point made by Deputy O'Connell and Deputy Gorey—that is, where you have two landlords equally liable. One landlord did work and the other did not. The landlord who did the work might, as the Bill stands, be mulcted for so doing. There is a danger that something like that might occur, and I will put in words to meet it.

Amendment, by leave, withdrawn.

Motion made and question put: "That Section 37 stand part of the Bill."

Agreed.

SECTION 38.

On the vesting of any lands under this Act, all sporting rights within the meaning of Section 13 of the Irish Land Act, 1903, and all fisheries appurtenant thereto, shall vest in the Land Commission as if the owner had agreed to sell them at such price as in the absence of agreement shall be fixed by the Land Commission (other than the Judicial Commissioner) or by the Judicial Commissioner on appeal from the Land Commission, regard being had in fixing such price to the fair value of the sporting rights and fisheries to the Land Commission and to the owner respectively. The purchase money of all such sporting rights

and fisheries shall be paid in $4\frac{1}{2}$ per cent. Land Bonds.

Mr. GOREY: I move amendment 72

To add after the word "shall," line 8, the words "(a) in the case of tenanted land vest in the tenant, and (b) in the case of untenanted land shall."

The Minister gave a promise on the Second Reading that this matter would be attended to, and we have put in words which would give effect to the promise.

Mr. HOGAN: Deputy Gorey's amendment would hardly meet the case. The Section would then read: "All sporting rights and all fisheries appurtenant thereto shall '(a) in the case of tenanted land vest in the tenant, and (b) in the case of untenanted land shall' vest in the Land Commission." That would apply to fisheries as well as to sporting rights as you have it drafted. I am not prepared to agree to that. Fishing is one thing, but sporting rights is another. I suggest the following amendment in Section 38:—

To delete this section, and insert:—

38.—(1) On the vesting of any lands in the Land Commission under this Act, all sporting rights as defined in Sub-section (2) of Section 13 of the Irish Land Act, 1903, including such sporting rights as may be superior interests, and all fisheries appurtenant to the said lands shall vest in the Land Commission, subject to any lease then existing, as if the owner or owners had agreed to sell them at such price as in the absence of agreement shall be fixed by the Land Commission (other than the Judicial Commissioner), or by the Judicial Commissioner on appeal from the Land Commission, regard being had in fixing such price to the fair value of the sporting rights and fisheries to the Land Commission and to the owner or owners respectively.

Provided that in the case of tenanted land the sporting rights other than fishing rights and fisheries shall be deemed to be of no appreciable value.

(2) Where the tenant of a holding of tenanted land is deemed to have entered into a subsequent purchase agreement for the purchase of the holding from the Land Commission under this Act, the sporting rights on and over the holding other than fishing rights and fisheries shall be vested in him with the holding.

(3) The purchase money of all such sporting rights and fisheries shall be paid in $4\frac{1}{2}$ per cent. Land Bonds.

(4) The Land Commission shall have power to make regulations conferring and defining rights of passage through and over any lands to any river or lake and along the banks or shores of any such river or lake which in the opinion of the Land Commission may be necessary or expedient for the proper user and enjoyment of any fishing rights vested in the Land Commission under this Act.

There is no purchase money for sporting rights on or over tenanted land. The monies referred to are for sporting rights on untenanted lands which are extremely valuable. There are large tracts of bogs which are valuable for sporting rights. They will be vested in the Land Commission, who will let them in the ordinary way. They will let them to the people who are most entitled to them. There are previous clauses in the Bill which give us the power to make sure that we have rights-of-way on banks of rivers or any rights-of-way we require in connection with fisheries.

Mr. GOREY: We have not had time to read that amendment, but I expect the Section is going to be recommitted to Committee.

Mr. HOGAN: It should be clearly understood I am not going to recommit any section that is passed. I shall only recommit those that I have given an undertaking to recommit.

Mr. GOREY: We had not time to study this. This is one of the sections we would like to have power to recommit.

Mr. HOGAN: It is open to the Deputy to propose an amendment to this section later on.

Mr. GOREY: That will be done.

Mr. JOHNSON: Does the Minister propose to introduce that now as an amendment at this stage?

Mr. HOGAN: I was going to ask the permission of the Dáil to do so.

AN LEAS-CHEANN COMHAIRLE: Does Deputy Gorey consent to withdraw Amendment 72 and substitute this instead?

Mr. DOYLE: I know of several harbours the sporting rights of which never have been protected. The tenants along the foreshore make their living out of them. I would like to ask the Minister would those be included in sporting rights?

Mr. HOGAN: The sporting rights of tenanted land will go to the tenant for nothing. Whether in a particular case certain sporting rights will go I cannot say until I know all the facts. The case would be governed by the facts. We cannot do more than to say that "the sporting rights of tenanted land will go to the tenant."

Mr. DOYLE: But this is not land at all; it is a kind of foreshore.

Mr. JOHNSON: May I suggest that the proposal of the Minister, which he will admit is very important, and I think will be generally acceptable, be deferred to the Report Stage, and that this amendment be circulated meantime, with notice that it is to be moved on the Report Stage? That would meet the desires of Deputy Gorey and the rest of the Dáil.

Mr. HOGAN: I will do that.

Mr. McGOLDRICK: I want to ask a question with regard to mineral rights.

Mr. HOGAN: On a point of order, may I ask are we dealing with mineral rights on this section?

AN LEAS-CHEANN COMHAIRLE: No.

Mr. GOREY: I shall withdraw my amendment.

Amendment, by leave, withdrawn.

Mr. FITZGIBBON: I do agree it is very desirable that we should see this proposed amendment if possible, but would it not be better to adopt it now, so that we will have it in print as soon as we get this Bill circulated for the next stage, rather than adopt a section which seems not at all consistent with the amendment that the Minister has read out? As far as I can understand his amendment, it carries out pretty much what was in this Section, only in a different way. All sporting rights, he suggested, on untenanted land shall vest in the Land Commission, and to this he

adds some proviso that in the case of tenanted land those sporting rights shall be deemed to be of no appreciable value—that is to say, that it will exclude them from the provision in this Section that they are to vest in the Land Commission, as if the owner had agreed to purchase them at such price as in the absence of agreement shall be fixed by the Land Commission. The Section fixed nothing for sporting rights, which is probably the value of sporting rights on tenanted land to anybody except the tenant, who, of course, can enjoy them himself, and prevent anybody else from getting any value out of them. Fisheries are another matter. The amendment of Deputy Gorey might have been very dangerous. It is right that all fisheries that vest in somebody other than the present owner should vest in the Land Commission, because if you happen to have two purchasing tenants with fishing rights on their holdings on opposite sides of the river, neither fishery will be worth anything either to the State or anybody else if the tenants choose to exercise the rights they possess. No doubt fisheries are capable of being of great value to the State in many different ways. Therefore it is quite right that they themselves should see that those who now become possessors of their holdings, and who had leased their fishing rights to persons who owned the general fishing rights of a stream, should not be in a position to destroy the whole value of the fishing rights in the stream to others above and below. This amendment vests all fisheries in the Land Commission, and all sporting rights of untenanted land, at a price to be fixed. On tenanted land it will work automatically; there will be no price at all. I suggest we would have a better opportunity of seeing the full bearing of this amendment if we had it in print as a part of the Section when we come on to the next stage rather than if we had the Section as it stands here, with a slip of paper containing the amendment. It would be easier to study it if you had it in the place it would be in if the Bill is passed, rather than try and read it into the Section with which it has no actual physical connection. Therefore, I would ask Deputy Johnson to adopt the amendment read out, and then we will be in a position to tackle it on the Report Stage when we have time.

Mr. JOHNSON: The only point in this matter is that the Dáil would be entitled to see an amendment of so important a nature before committing itself to accepting it. I think, however, it will be generally acceptable, and my first proposition was that it should be circulated in typewritten form at an early date, so that it could be considered on the Report Stage. If the Bill is to be printed and circulated with due notice before the Report Stage, then the proposition made by Deputy Fitzgibbon is quite satisfactory, and on that assumption I have no objection to accepting the amendment in this form at this stage, especially as I think it does meet the case made to the Minister in regard to those rights of fishermen who have for generations been working, say, at the mouth of the Shannon about Limerick, and on other rivers. I think it secures for them something for which they have been looking, and which prevents possible evils arising affecting them. If there is time to consider this amendment after the Bill, as amended, is circulated, and before the Report Stage, then I think the amendment might be accepted now.

Mr. HOGAN: The Deputies may take it that there will be time. There will be three days or more between the time the Bill will be in the hands of Deputies and the Report Stage. Of course, this Section can be recommitted.

Mr. WILSON: I am very much interested in the question of sporting rights. There are, as everybody is aware, a number of mountains in Wicklow on which there are sporting rights.

Mr. HOGAN: If this Section is to be recommitted, the Deputy, I suggest, will have an opportunity of later arguing the case. He should defer his argument until the recommitted section is introduced.

Mr. WILSON: The Minister for Agriculture does not recollect that I will be going home to-morrow, and I will have twenty-four men outside my door waiting to know something about the sporting rights.

Mr. ROONEY: I beg to propose the suggested amendment.

Mr. GOREY: We will be quite satisfied if the section is recast so as to in-

clude the substance of what we are now agreed on.

Mr. WILSON: All I want to know is what the Minister is doing.

Mr. HOGAN: We are vesting the sporting rights on tenanted land in the tenants for nothing.

Mr. WILSON: Quite so, but as regards the men owning the mountains, they pay rent for them, and they want the sporting rights.

AN LEAS-CHEANN COMHAIRLE: They are getting those rights under the suggested amendment if they are tenants.

Mr. WILSON: The landlord at the present time keeps a gamekeeper on these mountains, and the tenants cannot go looking for any game except surreptitiously. Those men are quite willing that when the Land Commission buys the rights from the landlord, as provided in the Act, to pay for them to the Land Commission, if that would meet the case.

Mr. HOGAN: That would exactly meet the case. The Land Commission can let the lands to whom they like if there are valuable sporting rights.

Mr. WILSON: I would like to point out that if the Land Commission gets the sporting rights, and the tenant gets permission from the Land Commission, there will then be no sporting rights, no game. This is a matter on which some agreement should be come to.

Amendment put and agreed to.

Mr. McGOLDRICK: Where does the question of mineral rights arise in the Bill?

Mr. HOGAN: It will be dealt with on recommitment in a section that will be proposed later.

Question: "That Section 38, as amended, stand part of the Bill," put and agreed to.

Question: "That Section 39 stand part of the Bill," put and agreed to.

Mr. DARRELL FIGGIS: On a point of order, before we reach those new sections under the heading of the National Land Bank, I may say that I have read them, and I am perfectly sure that I do

[Mr. Darrell Figgis.]

not understand what they mean. I have asked learned Deputies what they mean, and they too have failed to get a grasp of them. It is perfectly apparent they introduce something entirely new, and that was not before the Dáil on the Second Reading. I suggest it would be fairer to the Dáil, to the Clauses, and to whatever they intend to achieve, that the Minister might be able to deal with them all as one, and if necessary take a further Second Reading. I do not know whether that is practicable or possible, but certainly some procedure ought to be adopted by which we will be able to deal with all the amendments from No. 73 to No. 80 as one, in order that the Minister might explain to the Dáil why they are being moved, what caused them to be introduced now, and what exactly they mean.

Mr. HOGAN: I do not think everybody is in such a state over those new sections as the Deputy who spoke. The meaning of the amendments is quite clear to anybody who knows anything about land purchase or the operations of the National Land Bank. I referred, as a matter of fact, to this matter on the Second Reading. The amendments are long, but they effect a very simple purpose. The National Land Bank financed £339,000 worth of sales during 1919, 1920 and 1921. A number of men got together and purchased fee-simple land. The National Land Bank put up the purchase money. They compelled the purchasers to form a co-operative society, and they made an advance to the society. The society gave a mortgage to the Land Bank for the full amount of the purchase money, so that the present position is, so far as this £339,000 is concerned, the Bank hold mortgages for that amount for land in various parts of the country, the land being owned in fee-simple by these co-operative societies. The trouble is over interest and sinking fund. The Bank compelled the co-operative societies to repay the money at the rate of 7 per cent for seven years, 6 per cent. for ten years, and 5 per cent. for thirteen years. Most of these societies are paying something like 7 per cent. on the money. That was all right in 1919 and 1920, but under present conditions it is not an economic proposition. We have come to the rescue, and the Land Bank is quite agreeable. We are

advancing the money. In effect we are buying the land from the society, reselling to the society, and paying off the Land Bank mortgage. Roughly, if there is a mortgage of £10,000 on the lands of any society, the Government can buy the land at £10,000, advance £10,000 worth of Bonds to the Land Bank, and allow the society to repay that at the rate of four and three-quarters per cent. for 68½ years.

If we take a specific case it would make it quite simple. Assume a society owns a farm of land in fee-simple, a farm of about 600 acres, and that there is a mortgage on that of £10,000, a mortgage held by the Land Bank. The Land Commission, under the provisions of this Act, purchased that 600 acres. They are enabled to pay off any mortgages in Bonds. The provisions of the Act allow the society who are the owners of the land to pay off any mortgages in Bonds. The society does pay them off; they pay them £10,000 in Bonds. They repay that £10,000 worth of bonds by an annuity, just the same as any other tenant purchaser. The advantage to the society is that they are getting the money at 4½ per cent. interest instead of a 7 per cent. loan. That will help to put these societies on their feet.

Mr. ROONEY: Before this amendment is passed I would like to ask the Minister if societies are formed to purchase land in a similar way to the land purchased under the Land Bank, would these societies also come under this amendment?

AN LEAS-CHEANN COMHAIRLE: We cannot have a discussion on it before the Dáil, but the Minister may answer a question.

Mr. ROONEY: I thought the Minister would include societies such as these.

Mr. HOGAN: This only deals with Land Bank societies.

NEW SECTIONS.

Mr. BLYTHE: I move: To insert before Section 40 the following new section:—

The provisions of Part II. of this Act shall not, save as provided in this part of this Act, apply to any lands which have been purchased by a Co-operative Farming Society (in this part of this Act called a Society), or by a body of

trustees, by means of advances made by the National Land Bank, Limited (in this part of this Act called the Bank), and which, at the date of the passing of this Act, are subject to a charge for repayment of such advances, or any part thereof.

One of the reasons why it is confined to the Land Bank Societies is that the Land Bank was started by the Dáil. It was financed by the Dáil, and we cannot escape responsibility for the transactions in which it was involved. It was formed at a time when there was a danger that a special land division movement would cut across the national struggle that was going on. To prevent the energies of the country being dissipated the old Dáil set up Land Courts, which gave decisions as to land to which claims were made. Then, in order that these decisions might be financed, the Land Bank was set up, and it carried on its work very largely as political work in order to prevent, as I said, the land agitation from cutting across the national struggle and reaching unmanageable dimensions. The idea was to give the hope to the people who would otherwise be inclined to go in and secure land on their own, to secure it by purchase. It was only able to carry out its work to a small extent. The total number of acres purchased was 10,730, and the number of people in the Societies who acquired land was 879.

It was, perhaps, as well that the Land Bank was not able to buy more land than was bought, for at that time these people were willing to pay anything for land. The Land Bank was continually refusing to finance transactions because the people concerned were willing to pay a far greater price than the Bank thought they ought to pay. It was not able to keep the price down in the way in which it should be kept down. In those boom years people were willing to pay any prices, without regard to the future. These transactions served a very good purpose in their time, and there is no reason why the people who entered into these transactions should be let down, as they would be let down if we allowed that very heavy burden upon them.

Mr. GAVAN DUFFY: Will the Minister say where is the provision in the Bill which says the Land Bank is to be paid off in Bonds?

Mr. BLYTHE: It is in a subsequent section.

Mr. GAVAN DUFFY: I have looked through the subsequent sections, and I failed to find it.

Mr. DARRELL FIGGIS: Before Deputy Gavan Duffy spoke I was going to suggest that the explanation of the Minister for Agriculture is a very clear and lucid one, and that it is much more clear than these sections with which it deals. His explanation deals with matters not included in those sections.

Mr. HOGAN: Will the Deputy point out the matters not included in the section?

Mr. GAVAN DUFFY: I may say that I asked that question for the purpose of information. I am considerably interested in the Land Bank, and I am glad to see that at last it is getting something like official recognition. A statement has been made to us which opens up a new vista for the future of that bank, and one would like to see this particularly important point as to the bank having to take Bonds.

Mr. BLYTHE: It is in a subsequent section. It is dealt with by Amendment 77.

Question put and agreed to.

Mr. BLYTHE: I beg to move:—To insert before Section 40 the following new section:—

All land purchased by a society or body of trustees, by means of an advance made by the Bank, shall, if any part of the advance is unpaid, vest in the Land Commission on the appointed day, in like manner and with the like consequences as if Vesting Orders under the Land Purchase Acts had been made on the appointed day in respect thereof, in pursuance of subsequent purchase agreements entered into by the Land Commission with the society or body of trustees, at the price fixed under the provisions contained in this part of this Act.

Question put and agreed to.

Mr. BLYTHE: I beg to move:—To insert before Section 40 the following new section:—

The Bank shall furnish in writing to

the Land Commission particulars of the lands so purchased, of the portion of the purchase money (if any) deposited with them by the society or body of trustees, of the advance made by them for the purchase thereof, of the amount due them in respect of such advance, and of the superior interests and other charges (if any) subject to which the lands were purchased by the society or body of trustees, together with such other particulars as the Land Commission may require and prescribe, and shall lodge with the Land Commission such deeds, documents, and maps as may be necessary for the purpose of verifying the particulars so furnished.

Mr. HOGAN: This Section merely provides that any particulars that the Land Commission wants can be obtained by it from the Land Bank.

Question put and agreed to.

Mr. BLYTHE: I move:—"To insert before Section 40 the following new section:—

The Land Commission shall, from time to time, publish notices containing particulars of the lands so purchased, and of the superior interests and other charges, including the charge for the repayment of the advance due to the Bank, subject to which they were purchased, and such notices shall prescribe the time within which and the manner in which objections to such notices may be made, by reason of the inclusion or non-inclusion therein of any lands, or the omission or misdescription of any such superior interest or charge as aforesaid.

Mr. HOGAN: That speaks for itself. It is a very simple thing. I do not know why any Deputy cannot understand that.

Question put and agreed to.

Mr. BLYTHE: I beg to move:—"To insert before Section 40 the following new section:—

The Land Commission (other than the Judicial Commissioner) shall consider all objections duly made, and there shall be a right of appeal to the Judicial Commissioner, whose decision shall be final. The Judicial Commis-

sioner shall, if he is satisfied that prior to the date of the passing of this Act the Society or body of Trustees had a good title to the lands so purchased, free from incumbrances, save the charge securing the repayment of the advance due to the Bank, and any superior interests or land purchase annuities, ascertain the superior interests issuing out of the lands, and shall fix the redemption price of all such superior interests and annuities, and shall also ascertain the amount due for principal (without giving credit for the deposit, if any, lodged with the Bank by the Society or body of Trustees) and interest on foot of the charge securing the repayment of the advance due to the Bank, and shall fix the price of the lands at such sum as shall be sufficient to redeem and pay off all such superior interests and annuities, and the charge securing the repayment of the advance due to the Bank, together with such costs as may be allowed by him. When the Bank shall have satisfied the Land Commission that they have repaid to the Society or body of Trustees such deposits as aforesaid, the price so ascertained, of which one-eleventh shall be contributed by the State, shall be paid in $4\frac{1}{2}$ per cent. Land Bonds on the appointed day.

Mr. HOGAN: I might mention that it was the custom of the Bank to require societies to lodge on deposit in the Bank one-fourth of the purchase money. The Bank took a mortgage, however, for the full purchase money. This money here was merely lodged on deposit account. The interest accumulated, and helped, together with the 7 per cent. interest, the current interest, to redeem the loan. The State is paying one-eleventh of the purchase money in relief of the societies.

Mr. GAVAN DUFFY: If the Minister will look more closely at the Section he will see that the objection I ventured to raise was not wholly unreasonable, because the Section to which he refers provides for the price being paid in Bonds. Of course, if that means the redemption price, the money to be paid for redeeming the mortgage to the Bank, it does provide that the Bank is to take Bonds. But I do not think it is clear. It would look as if it were an ordinary provision as to purchase price. The question you have to deal with is

the payment back of money to the Bank, so that the word "price" is misleading if that is intended to mean that the Bank is to take its payment in Bonds.

Mr. HOGAN: I do not think it is. The Judicial Commissioner shall, if he is satisfied that prior to the date of the passing of this Act the Society or body of Trustees had a good title to the lands so purchased, free from incumbrances, save the charge securing the repayment of the advance due to the Bank, and any superior interests or land purchase annuities, ascertain the superior interests issuing out of the lands, and shall fix the redemption price of all such superior interests and annuities, and shall also ascertain the amount due for principal (without giving credit for the deposit, if any, lodged with the Bank by the Society or body of Trustees) and interest on foot of the charge securing the repayment of the advance due to the Bank, and shall fix the price of the lands at such sum as shall be sufficient to redeem and pay off all such superior interests and annuities, and the charge securing the repayment of the advance due to the Bank, together with such costs as may be allowed by him. Does not that make it clear?

Mr. GAVAN DUFFY: I do not think it makes it clear that the Bank must take payment in Bonds.

Mr. HOGAN: "Shall fix the price of the lands at such sum as shall be sufficient to redeem and pay off all such superior interests and annuities." The superior interests referred to are all possible superior interests and annuities, including the annuity due to the Bank on foot of the mortgage. The price shall be such "as shall be sufficient to redeem and pay off all such superior interests and annuities, and the charge securing the repayment of the advance due to the Bank, together with such costs as may be allowed by him. When the Bank shall have satisfied the Land Commission that they have repaid to the Society or body of Trustees such deposit as aforesaid, the price so ascertained, of which one-eleventh shall be contributed by the State, shall be paid in $4\frac{1}{2}$ per cent. Land Bonds on the appointed day." The price will include not only the debt to the Bank, but the debt of perhaps the owner of some other superior interest. This land is like any other fee-simple land we are buying. There are superior interests

on it. It is in exactly the same case as land owned by an ordinary owner in fee-simple who has his superior interests, and who has his mortgage. The Society own the land. They have a mortgage to the Land Bank; they may have to pay head rent to somebody else. The price includes the value of all the mortgages and head rents, and the price so ascertained, of which one-eleventh shall be contributed by the State, shall be paid in $4\frac{1}{2}$ per cent. Land Bonds.

Mr. GAVAN DUFFY: Perhaps I am unduly stupid, but I confess I see a difficulty. To say that the price shall be paid in Bonds is not the same as to say that the mortgage is to be paid in Bonds. Even after the Minister has read the provision of the Section in which the word "price" occurs twice I remain of the same opinion, that it is not made clear that the Bank is to be paid in Bonds.

Mr. BLYTHE: The Bank will be very glad to be paid in Bonds.

Mr. HOGAN: It is perfectly clear: Amendment 74, which we have passed, says:—

All land purchased by a society or body of trustees, by means of an advance made by the Bank, shall, if any part of the advance is unpaid, vest in the Land Commission on the appointed day, in like manner and with the like consequences as if Vesting Orders under the Land Purchase Acts had been made on the appointed day in respect thereof, in pursuance of subsequent purchase agreements entered into by the Land Commission with the society or body of trustees, at the price fixed under the provisions contained in this part of this Act.

That makes these sections read with the rest of the Bill for the purpose of paying off mortgages.

Mr. GAVAN DUFFY: It really depends on the reference back.

Mr. McGOLDRICK: Am I right in saying that the Bank, which has advanced £1,900 on this land, will now be paid £2,800 in stock— $4\frac{1}{2}$ per cent. Stock instead of 7 per cent.—is that the meaning of it?

Mr. HOGAN: If I were quite clear as

[Mr. Hogan.]
to what the Deputy wanted to know I would answer him, but I am not.

Mr. McGOLDRICK: It has been stated that the Bank is to take stock instead of their advance. Is that right?

Mr. HOGAN: The Bank is in exactly the same position as the owner of any other superior interest. They will get the full amount of their advance like any other mortgagee, but they will be paid in stock.

Mr. McGOLDRICK: They have already advanced money at 7 per cent. to these societies.

Mr. BLYTHE: It is not at 7 per cent., but with Sinking amounts to 7 per cent.

Mr. McGOLDRICK: That makes a slight difference— $\frac{1}{2}$ per cent., I suppose.

Mr. BLYTHE: A great deal more than that.

Mr. McGOLDRICK: The 7 per cent. in any case, with the money now at $4\frac{3}{4}$ per cent., works out at the figures I stated.

Mr. HOGAN: What is the Deputy's point?

Mr. McGOLDRICK: If the Bank has advanced £1,900 to these societies, and holds them responsible for 7 per cent. to cover Sinking Fund and interest on that money, and it is now proposed to give the Bank stock in lieu of that 7 per cent. interest to bring them the same return at $4\frac{3}{4}$ per cent., that would amount to the figures I have stated.

Mr. HOGAN: They will not be paying back the interest, but the principal, the same as to any other mortgagee.

Mr. WILSON: How much are those tenants getting as a reduction in rent by this?

Mr. HOGAN: A little more than the difference between the 7 per cent. and the $4\frac{3}{4}$ per cent., in view of the fact that we are paying off one-eleventh of the purchase money.

Mr. ROONEY: I am not opposed to this. I am very glad, for the sake of

the tenants and for the National Land Bank, that this amendment has been introduced, but there are other tenants in the country similarly situated to the tenants affected here. What I want to know is, will these tenants be in the same position to get relief from their heavy financial responsibilities as the tenants under this Clause?

Mr. HOGAN: These Sections only deal with societies, and I am sure the Deputy has in mind a case where a number of landless men bought untenanted land one or two years ago and divided it up. They are now the owners in fee simple, each of a little bit, but owing a lot of money to the Bank.

Mr. ROONEY: They are collectively and individually responsible the same as the societies.

Mr. GAVAN DUFFY: Is there not a difference between the case the Deputy has in mind and the National Land Bank namely, that the other banks did not advance the whole of the money, or anything like it?

Mr. ROONEY: They advanced on the same terms.

Mr. JOHNSON: Another point suggests itself. I do not know what the terms of the deposits may have been, but it occurs to me that some difficulty may arise between the societies and the banks. When this Bill is passed all the societies will be looking for immediate attention. The last clause says that when the Bank shall have satisfied the Land Commission that they have repaid to the society or body of trustees such deposit of £100,000, whether the deposit receipts are redeemable, and whether the money can be demanded at any time, or about the same time, may cause difficulty. I wonder has that point been considered.

Mr. HOGAN: That is a thing we could not inquire into really. The money is there on deposit receipt, and the tenants are entitled to it, and it is provided here that they shall get back that deposit if they so demand it. These sections were prepared in consultation with the National Land Bank.

Question put and agreed to.

Mr. BLYTHE:—I beg to move:—
To insert before Section 40 a new Section as follows:—

Subject to the provisions hereinafter contained, each Society or body of Trustees, which on the appointed day was in occupation of lands so purchased and vested in the Land Commission under the provisions of this part of this Act, shall be deemed, on the appointed day, to have entered into a subsequent purchase agreement with the Land Commission for the purchase of the lands from them, at a price equivalent to ten-elevenths of the price fixed under the provisions of the foregoing section.

There shall be payable by the Society or body of Trustees to the Land Commission an annual sum, calculated at the rate of 4½ per cent. upon the sum for which the Society or body of Trustees is deemed to have agreed to purchase the lands, from the appointed day until the gale day next after the vesting of the lands in the Society or body of Trustees, or until the ceaser and determination of the interest of the Society or body of Trustees in the lands.

The Land Commission shall have for the recovery of such annual sum the same remedies as they have for the recovery of unpaid instalments of Purchase Annuity.

There shall be payable by the Society or body of Trustees to the Land Commission, on the gale day on which the first instalment of the said annual sum shall become payable by them, an additional sum, equivalent to a proportion of the said annual sum, in respect of the period between the said gale day and the day on which the next dividends are payable on Land Bonds issued under this Act. The Land Commission shall have for the recovery of such additional sum the same remedies as they have for the recovery of unpaid instalments of purchase annuity.

All payments made by a Society or body of Trustees after the appointed day on foot of the annual sum payable to the Land Commission under this Section shall, from and after the vesting of the parcel in them be treated

for all purposes as if they had been payments in respect of Purchase Annuity.

Mr. ROONEY: I think some provision should be made for the tenants affected by other Banks. Would it not be essential to these tenants, while this Bill is going through the Dáil, that they should be put in an equivalent position to those who are responsible to the Land Bank? I would like to have some provision made in the Bill, as I think otherwise it would be a great injustice on men who purchased on the same terms, simply because they had not purchased through the Land Bank.

AN LEAS-CHEANN COMHAIRLE:

You can ask a question of the Minister but you cannot make a speech. There is no amendment on the paper dealing with these tenants.

Mr. ROONEY: I am asking the Minister to put in an amendment later on to meet the point I have raised.

Mr. HOGAN: They are actually provided for already in the Bill. Most of these cases will vest as untenanted land in the Land Commission in the congested districts. The land will be re-sold to the owners. At present we are dealing with special sections referring to the Land Bank.

Mr. DARRELL FIGGIS: Is it not in the competence of any Deputy dealing with an amendment to complain that the amendment has a less extended range than he considers it justifiably should have?

AN LEAS-CHEANN COMHAIRLE:

The Deputy can ask a question but he cannot raise a discussion.

Question put, and agreed to.

Mr. BLYTHE:—I beg to move:—
To insert before Section 40 a new Section as follows:—

(1) After the appointed day, where the Land Commission are satisfied that lands so purchased and vested in the Land Commission have been properly managed, after the methods of good husbandry, and that the Society or body of Trustees is properly constituted under the rules governing such Societies, or the Deed of Trust appointing such

Trustees and approved by the Land Commission, and has conducted its affairs according to such rules or such deed, and has not done or suffered any act, by reason of which the Society is liable to be wound up or dissolved or the body of Trustees is liable to be declared bankrupt or insolvent, the lands shall be vested in the Society or body of Trustees by means of a Vesting Order or otherwise.

(2) Where the Land Commission are not satisfied that the foregoing conditions have been fulfilled, and so declare in the prescribed manner, then the interest of the Society or body of Trustees in the land shall absolutely cease and determine, and the lands shall be retained by the Land Commission, as if they had been untenanted lands vested in the Land Commission under the provisions of Part II. of this Act.

Question put, and agreed to.

Mr. BLYTHE:—I beg to move:—
To insert before Section 40 a new Section as follows:—

The provisions contained in Part I. of this Act as to the costs fund shall not apply to proceedings under this Part of this Act.

Question put, and agreed to.

Mr. BLYTHE: I move "that the new Sections stand part of the Bill."

Agreed.

Section 40 put, and agreed to.

Section 41:—

(1) Where the registration of the ownership of land, the registration of which is compulsory under the Act of 1891, has not been effected, the Land Commission or the Commissioners of Public Works in Ireland may furnish to the Registrar of Titles the prescribed particulars respecting that land and the name of the person appearing to them to be in possession thereof, and the registering authority shall thereupon register that person as the owner of that land with a possessory or qualified title.

(2) The first registration of any person as full or limited owner with a possessory title shall have the same effect as the

first registration of a person as full or limited owner under the Act of 1891, save that registration with a possessory title shall not affect or prejudice the enforcement of any estate, right or interest adverse to or in derogation of the title of the first registered owner or subsisting or capable of arising at the time of such first registration.

(3) The first registration of any person as full or limited owner with a qualified title shall have the same effect as the first registration of a person as full or limited owner under the Act of 1891, save that registration with a qualified title shall not affect or prejudice the enforcement of any estate, right, or title appearing by the register to be exempted from the effect of registration.

(4) A person registered as owner with a possessory or qualified title as aforesaid may at any time, in the prescribed manner, apply for registration with an absolute title, and all such steps may be taken in regard to such application as may be taken in proceedings for the discharge of equities under the Act of 1891. If it is found on the examination of any such application that the applicant can be registered with a qualified title only, registration may be so effected.

The registration of an absolute title shall have the same effect as the registration of a person as full or limited owner under the Act of 1891.

(5) Rules under the Act of 1891 may be made for carrying into effect the object of this section and the expression "prescribed" in this section means prescribed by such rules. Office fees shall not be payable for the first registration of any title under this section.

(6) The power of the Court or the Land Commission under Sub-section (2) of Section 34 of the Act of 1891, and Sub-section (3) of Section two of the Land Law (Ireland) Act, 1896, to correct errors in the registration of land, and to rectify the register and vesting order or fiat if in their opinion the error can be corrected without injury to any person, shall include power to make such correction and rectification notwithstanding that some person is thereby injured, upon such terms and conditions as appear to the Court or the Land Commission to be equitable, including, if necessary, compensation for such injury.

Mr. DUGGAN: I move:—To delete Sub-section (4) and to substitute in lieu thereof the following Sub-section:—

"The registered owner and such other persons as may be prescribed, may at any time apply to the registering authority to ascertain the full title to the lands, and to enter on the register the burdens thereon and the rights and interest therein, which have not been affected or prejudiced by the registration of the ownership, with a possessory or qualified title, and the registering authority shall thereupon ascertain and enter on the register such burdens, rights and interests, and shall cancel on the register the registration, with qualified or possessory title, and thereupon the registration shall have the same effect as registration of a full or limited owner under the Act of 1891.

"If it is found on the examination of any application that registration with a qualified title only can be effected, registration with such title may be made."

It is really a matter of altering the wording. The Sub-section provides for the discharge of equities in cases where the holding is vested and registered subject to equities, which is the ordinary procedure applied to purchased land. I am sure a great many Deputies know what the discharge of equities means and that it is unnecessary to explain it.

Amendment put, and agreed to.

Motion made and question put "That Section 41, as amended, stand part of the Bill."

Agreed.

Sections 42, 43 and 44 put, and agreed to.

SECTION 45.

Notwithstanding any provisions to the contrary in the Land Purchase Acts, the Congested Districts Board (Ireland) Acts, or the Act of 1891, contained, the Land Commission may resell any lands vested in them under the Land Purchase Acts, or as successor to the Congested Districts Board for Ireland, before they have been registered as owners thereof under the Act of 1891.

Mr. DUGGAN: I move:—To delete the words "before they have been," lines 28 and 29, and to insert in lieu

thereof the words "without being." This is merely a verbal alteration.

Amendment put, and agreed to.

Motion made and question put, "That Section 45, as amended, stand part of the Bill."

Agreed.

SECTION 46.

(1) A Vesting Order or Fiat shall not be void by reason of the death, before the execution thereof, of the person in whom the lands comprised therein are purported to be vested, but shall be effectual to vest, and shall be deemed always to have vested, the said lands in the personal representative (when raised) of the said person, to such uses and upon such trusts as the lands would have stood limited to had they been vested in the said person immediately prior to his death.

(2) Where the applicant for first registration of lands, the registration of which is compulsory under the Act of 1891, dies before the completion of such registration, and the said lands are subsequently registered in the name of such deceased applicant, the registration shall not be void by reason of the death of the applicant, but shall be and shall be deemed always to have been a valid registration of the lands in the personal representative (when raised) of the deceased applicant subject to such uses and trusts as affect the estate and interest of a personal representative.

Mr. DUGGAN: I move:—To delete the words "the said," lines 34 and 36, and to substitute therefor the word "such," and to delete the word "to," line 36.

Amendment put, and agreed to.

Mr. DUGGAN: I move:—After the word "applicant," line 45, to delete all the words to the end of the Sub-section, and to substitute therefor the words "to such uses and upon such trusts as the lands would have stood limited had such person been registered as owner immediately prior to his death.

Amendment put, and agreed to.

Motion made and question put, "That Section 46, as amended, stand part of the Bill."

Agreed.

Section 47 put, and agreed to.

SECTION 48.

(1) Where the Land Commission have after the date of the passing of this Act made any advance for the purchase of a holding or parcel, the proprietor thereof shall not sub-divide or let the holding or parcel without the consent of the Land Commission, and every attempted sub-division or letting in contravention of this provision shall be void as against all persons, and on any such contravention the holding or parcel shall at the option of the Land Commission vest in them.

(2) In the case of any holding which is subject to any charges in respect of an annuity in favour of the Board of Works created in pursuance of the Landlord and Tenant (Ireland) Act, 1870, so much of the 44th and 45th Sections of the said Act as prohibits, without the consent of the Board, the alienation, assignment, sub-division or sub-letting of a holding charged as in the said sections mentioned and declares that, in the event of such prohibition being contravened, the holdings shall be forfeited to the Board, and also as much of Section 2 of the Landlord and Tenant (Ireland) Act, 1872, as relates to the sale of holdings in lieu of forfeiture, shall be repealed and the prohibitions contained in Sub-section (1) of this section against sub-division and letting shall henceforth apply to all such holdings as if they had been contained in the said Acts of 1870 and 1872, but only during such time as any part of the annuity charged on such holding remains unpaid.

Mr. NAGLE: I move:—In Sub-Section (1), lines 9 and 10, to delete all from the word “and” to the word “contravention” inclusive, and to substitute therefor the words “and the proprietor shall be bound to cultivate the holding or parcel in accordance with proper methods of husbandry, to the satisfaction of the Land Commission; and on any failure to comply with the requirements of this Sub-section.”

Mr. JOHNSON: The object of this amendment is to have inserted these provisions which we brought on before, giving the Land Commission certain supervision over the conduct of the holding. There is certain supervision provided for in the Section, which states that there shall be no sub-division or letting. The amendment tries to secure also that there shall be not merely

negative action but positive action, and that there shall be proper cultivation. I hope the Minister will see his way to accept the amendment.

Mr. HOGAN: This is practically the same as we had in amendment 62. We have agreed to a substituted amendment, and I need not now go into the question that was then raised. The Deputy, I think, knows that I have gone as far as I possibly could.

Amendment put, and declared lost.

Motion made and question put: “That Section 48 stand part of the Bill.”

Agreed.

Sections 49, 50 and 51 put, and agreed to.

SECTION 52.

(1) The provisions of Sections 4 and 20 of the Irish Land Act, 1903, and of Section 18 of the Irish Land Act, 1909, shall be extended so as to include tillage as one of the purposes for which advances may be made under those sections and it shall be lawful for the Minister for Agriculture to amend and frame schemes so as to include this purpose.

(2) So much of Section 20 of the Irish Land Act, 1903, as requires provisions for appeals to the Lord Lieutenant to be inserted in any such scheme and so much of any scheme as provided for such appeals shall cease to have effect, and the other powers declared in the said sections to be exercisable by the Lord Lieutenant and the Department of Agriculture shall be exercised by the Minister for Agriculture in the case of all existing schemes as well as in the case of future advances and schemes.

(3) Any person aggrieved by any act or omission of any trustees in carrying into effect a scheme for the user of land framed or approved under Section 20 of the Irish Land Act, 1903, may take proceedings in the County Court by way of equity civil bill for the execution of the trusts of the scheme, and the jurisdiction of the County Court shall extend to any such proceedings notwithstanding that the land subject to the trusts exceeds thirty pounds in annual value.

(4) It shall be lawful for an Urban District Council to purchase any parcel of land under Section 4 of the Irish Land Act, 1903, for any of the purposes

mentioned in that section as extended by Sub-section (1) of this section, save for the purposes of the Labourers (Ireland) Acts, 1883 to 1896, and any such Council may act as trustees for those purposes and may obtain advances for the purchase and the provisions of Section 18 of the Irish Land Act, 1909, shall apply to any such purchase as if Urban Councils were mentioned in that section.

The amounts required for payment of the instalments of the purchase annuity for lands purchased by an Urban Council under this section shall be defrayed out of the poor-rate.

Amendment by **Mr. Burke**:—

“To add after the word ‘Council,’ Sub-section (4), page 20, lines 17 and 21, the words ‘or Town Commissioners,’ and to add after the word ‘Councils,’ line 25, the words ‘and Town Commissioners,’ and to add after the words ‘Poor Rate,’ line 28, the words ‘and for lands purchased by Town Commissioners under this Section out of the Town Rate.’”

Mr. DUGGAN: In the absence of Deputy Burke I beg to move this amendment.

An Ceann Comhairle resumed the chair at this stage.

Amendment 87 by **Messrs. R. CORISH, R. DAY, and W. DAVIN**:—

“In Sub-section (4), page 20, line 17, to delete the words ‘Urban District Council,’ and to substitute therefor the words ‘County Borough Council, Urban District Council, or Town Commissioners,’ and in line 21, after the word ‘Council,’ to insert the words ‘Town Commissioners.’”

Mr. HOGAN: These two amendments are practically the same. My suggestion is that “Town Commissioners” be added to the first.

AN CEANN COMHAIRLE: The amendment which it is proposed to add to 86 is “In Sub-section (4) of Section 52, after the word ‘for’ to insert ‘A County Borough Council or’ and in line 27, after the word ‘purchased by,’ to insert the words ‘a County Borough Council or.’”

Mr. JOHNSON: Might I suggest that there should be included in line 17 the words, “Town Commissioners”

AN CEANN COMHAIRLE: That is in 86 already. This is to add to 86.

Mr. JOHNSON: I suggest that the shortest way out of this would be that Amendment 86 should be accepted and that in leaving 87 the Minister will agree to include the purpose of this in the next reading.

AN CEANN COMHAIRLE: I think that would be simpler. The Minister accepts the substance of that?

Mr. HOGAN: Yes.

Amendment 86 agreed to.

Amendment 87, by leave, withdrawn

Motion made and question put: “That Section 52, as amended, stand part of the Bill.”

Agreed.

SECTION 53.

For the purposes of this Act the appointed day shall be such day or days as may be fixed by the Land Commission and different days may be fixed for different provisions and different purposes of this Act and for different holdings or groups of holdings and different parcels or groups of parcels of untenanted land.

Amendment by **Mr. GOREY**:—“To add after the word ‘Commission,’ the words: ‘not more than one year from the date of the passing of this Act.’”

Mr. GOREY: This amendment is put up to make more definite the date of the appointed day. Its object is to make it as soon as possible.

Mr. HOGAN: We cannot fix the appointed day. There are many reasons why the appointed day should be fixed from the point of view of giving people an idea of when they can be sure they own their land. If we were to put down a date at all we should have to say about five years, and put in a provision leaving some authority to the Minister for Agriculture, or somebody, to extend the appointed day, because, as long as the operations of this Act continue—and I daresay they will continue for a great many years—it will be necessary to name an appointed day. We have deliberately left that vague. We hope to have an appointed day, as I explained, for some estates, immediately, and for other estates later, and to have an appointed day in fact as soon as we can get a few simple

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particulars that we require. We want to know the name and address of the tenant and the name and address of the landlord, and to know whether they are judicial tenants or non-judicial tenants, or first, second, or third term, and whether there is a sub-tenancy on the holding, and so on. I should say there would be an appointed day for some tenants in about a year, and the appointed day for all of the tenants would not come, I should say, before two years from the passing of the Act, and for some tenants perhaps longer. For the great majority of them, the appointed day will be about a year and a half. As to untenanted land, we might be able to buy some within two years. We certainly will not have all the untenanted land we require by within five or six or seven years hence. The Land Commission would have to be in a position to fix an appointed day whenever it suits them. If we are able to put all the tenants in the same position as if their holdings were vested within two years, our procedure will be at least five times as expeditious as the procedure under previous Acts. As a rule it took about ten years from the time negotiations started until the holding was actually vested in the tenants—hardly ten years, seven or eight years.

Mr. GOREY: Under what Act?

Mr. HOGAN: Under the 1903 Act. Here we propose within two years to put the tenant in the same position as if the holding was vested in him. In regard to untenanted land I should say the appointed day will be in about two years time. It is clear enough that we cannot name an appointed day for a definite period for all the tenants.

Motion made to report progress.

THE DAIL RESUMES.

Progress reported. The Committee ordered to sit again on Monday, July 9th.

THE ADJOURNMENT—BALLYHAISE STRIKE.

Mr. BLYTHE: I move that the Dáil do now adjourn.

CATHAL O'SHANNON: Mar a thug me fógra air roimh-ra is mian liom iarraidh ar an Dáil aire a thabhairt ar an stad oibre san colaisde talamhuíochta i gCoir Chabháin. Tá dha cheart ann.

An chead cheist oca: laghdú ar thuarasdail na bhfear oibre san colaisde agus an dora cheist nach bhfuair Cumann na bhfear san aon fhógra ar an laghdú paighe sin ón Aireacht.

There are two questions involved in this strike of the agricultural labourers employed by the Minister for Agriculture in the Agricultural Station at Ballyhaise. First, there is the question of the reduction of wages on these men, and, second, there is the relationship between the Department and the Union to which these men belong. I am informed that under the direction of the Ministry of Finance it was decided about the 17th June that a reduction should be made in the case of these workmen. As regards some of the men, this reduction is as high as 10s. a week. No doubt it is divided into two cuts, one of 5s. last month and one of 5s. to come into operation a little later. That is a very heavy reduction indeed. The other question, and I think it is as important in a way as the question of the actual wages reduction, is the relationship between the Department and the Union to which the men belong.

No intimation was given to the Union by the Department concerned as to the coming reduction. Even when the Union got into touch with the Department as a result of the reduction, and a strike had taken place, the Union suggested that there should be a conference, but no acceptance of the offer to hold a conference has been given by the Department. The wages of most of the men are being reduced to 30s. per week, plus time and a half for overtime. They work a 54-hour week. In some cases the reductions are more. There is the rather significant point that notice was actually given in Ballyhaise by, I think, the Department that in the event of a strike taking place notification was to be given by the College immediately to the nearest Civic Guard Station. Now, it happens, I think, that the relations between the men and the authorities there have been ordinarily good. I do not think that any one who knows the County Cavan people will think there was a real likelihood of trouble. This was an ordinary industrial dispute, but the Department wanted apparently to be very much upon the safe side, and therefore they were looking out for the Civic Guard.

The ordinary course, even under the British regime, has been that when an increase is demanded, or a reduction threatened, the Department concerned has no hesitation at all in getting into touch with the Union to which the workers belonged, and making an attempt at first to arrive at something like an amicable settlement. No such attempt was made in this case. The cut was enforced, and on the 21st June the Union wrote to the Department, and in the course of their letter protested against the cut, and suggested a conference. The letter was replied to, but there was no reason given why there had been no negotiations with the men or the Union prior to the cut, and there was no acceptance of the suggestion for a conference. Later on the suggestion of a conference was renewed on the part of the Union, but no response has been made to that letter. I do not say that the Minister for Agriculture is altogether to blame, though he is responsible for the Department. It appears that between the Ministry of Finance and the Ministry of Agriculture there is an Inter-Departmental Committee, whose activities, I think, the Dáil would do well to be watchful of. This Committee, I understand, ordered this reduction, and it looks as if the Executive Council is setting up, without informing us here much about it, what we might call "a docking committee." No doubt economy is very necessary, but if it is necessary it should be done in a way that would produce the least friction. Certainly the activity of this Committee, in this particular instance, has produced friction, which has resulted in a strike. I may add that there is some sign that the Workers-Farmers Alliance is going nearly as strong up there as it is here, but that is by the way. The Department claims that there had been reductions in the price of labour in the district. My information is that there has not been such a reduction. As a matter of fact, there is not a great deal of employment locally, and the only place that would compare in numbers in the locality with this station is the creamery there. Now the wages in the creamery are 40s., I think, for a much shorter week and less number of hours—52 hours as a matter of fact, against 54 hours. The position, I think, wants some further explanation by the Ministry than that vouchsafed by the Department to the Union, and I ask

the Minister to give us that explanation. I would press him to give an explanation as to why there was no attempt at negotiation between these men or their Union before the reduction took place; why was there no conference, and no acceptance of the offer of a conference since; and I should like to ask him whether it is the determined policy of the Department, that in a case like this action should be taken without any attempt being made to fix up the matter peaceably and quietly before any such action is taken.

Mr. HOGAN: I must confess, at the outset, that I do not know as much about this as perhaps I ought to know. I do know this, that these matters are fixed in this country as in other countries, by the Treasury, with the assistance of an Inter-Departmental Committee. That is not peculiar to this country, that wages and conditions applying to men of this sort should be regulated by the Ministry of Finance with the advice and assistance of an Inter-Departmental Committee. That is what is done here and in every other country. There is nothing hastily done. All the circumstances of the case were inquired into. The maximum wages for similar work in the neighbourhood were ascertained, and the wages offered by the Treasury, on the advice of that Committee, are the maximum wages for that class of work in the district. There was one case quoted by the Deputy, that of Ballyhaise creamery. The work in a creamery is totally different from agricultural work on a farm. My information is that the wages offered here are equal to the maximum wages accepted by other men in the Union in the same neighbourhood for the same class of work; and I think I am standing on a very sound principle when I say that a Government Department like this, employing labour, is doing as much as it would be entitled to do when it pays the maximum wages for the same class of work in that district.

CATHAL O'SHANNON: And the same hours?

Mr. HOGAN: That is my information.

CATHAL O'SHANNON: Are they fixed hours?

Mr. HOGAN: My information is that these employees are being paid the maximum rate of wages paid to men doing a similar class of work in the neighbour-

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hood. If that is so, we are on firm ground. I understand that the Deputy's real complaint is that the Union was not consulted beforehand. I am ready to listen to any representations that may be made to me, and I would like to hear their case. It is hardly fair to expect me to express an opinion on a question like this offhand across the Dáil. If the Union puts the case in writing, I will bring it before the Departmental Committee, and will undertake to discuss it with the Committee and go into the question fully. At present I cannot say any more on that particular question.

Mr. JOHNSON: That matter has not been dealt with very satisfactorily: the matter which the Minister says is the chief point in the complaint of Deputy O'Shannon, which is that the Ministry simply takes up the position that after a certain date the men get notice that their wages shall be so-and-so, and accompanying that notice is the intimation that the Civic Guard must be on the look out. That surely is not the kind of relationship there should be between an employer and employee, especially when the employer is a Government Department. After all, the men have the right to be able to confer; it is a reasonable request at least that there should be some conference to discuss the matter of a contract. The method that has been adopted towards the men is that, on and after a certain date, "you shall be paid so-and-so," as if there was no other party to this agreement, and as if the expected response is to be a strike, because there is a notification immediately after the men have been told that their wages are to be so-and-so, that the Civic Guard are to be in attendance. That is not calculated to produce harmony or good service in the future. It is rather shallow and shortsighted, and I hope the Minister will take notice of that part of the complaint as well as the other, and attempt to change the attitude of mind, shall I say, between the Ministry, as an employer, and the workers as servants. Surely nobody is going to plead that in this day an employer has nothing to say to an employee except "your wages henceforth are reduced by 10s.," and leave it at that.

Mr. HOGAN: That is what I was referring to when I said that I understood

Deputy O'Shannon's chief complaint was that the Union had not been consulted beforehand. As I have already stated, if the Union puts the case in writing before me, I will undertake to discuss it with the Inter-Departmental Committee, and I will give the Union at least a considered view on that point at the first opportunity.

CATHAL O'SHANNON: I am sure the Minister has the file of correspondence that passed between the Department and the Union in reference to this case, and if he has that correspondence he knows that a suggestion was made by the Union on two separate occasions, on the 21st June and on the 3rd July, for a conference between the Department and the Union. There was no response to that particular suggestion, and there was no consultation either with the men concerned or with the Union before the cut took place.

Mr. HOGAN: I do not think I have anything more to say on that point. What was done by this Committee is the normal procedure. It was not until after the notice had been served that I had any reason to think that the men or the Union thought the procedure rather summary. As I say, the Department is open to receive any representations that the Union wishes to make in writing, and I am prepared to discuss the question with the Inter-Departmental Committee and let the Union know what our definite policy is on this matter. I could not state our definite policy at the moment.

CATHAL O'SHANNON: You say written representations?

Mr. HOGAN: Yes.

CATHAL O'SHANNON: What about verbal representations in the shape of a conference in the ordinary way?

Mr. HOGAN: We would consider that question on getting the written representations first.

CATHAL O'SHANNON: And let the strike go on?

Mr. HOGAN: The sooner the written representations are made the sooner it will be brought to a head.

Mr. JOHNSON: It is rather a pity to hear the Minister say that this is the normal procedure.

The Dáil adjourned at 4.20 p.m. until 3 o'clock on Monday, 9th July.

DÁIL EIREANN.

DE LUAIN, 9ADH IUIL, 1923.

(Monday, 9th July, 1923.)

Cromadh ar obair an lae ar a 3.10 p.m. Bhí an Ceann Comhairle, Micheál O hAodha, 'sa Chathaoir.

PUBLIC SAFETY (EMERGENCY POWERS) BILL, 1923.

THIRD STAGE—POSTPONED.

Mr. DARRELL FIGGIS: Before the Dáil goes into Committee, may I raise a question at this stage with regard to the Orders of the Day, which have been put into our hands. I think that now is the right time to raise a matter that I have in mind with regard to item 2 on the Orders of the Day. On last Saturday afternoon in common with other members I received these Orders of the Day. No. 2 on these Orders is entitled "The Public Safety (Emergency Powers) Bill, 1923—Committee." The actual amendments have only been received by me just now. I understand the difficulties that there are in this matter, but it does seem to me not in the public interest, and not proper to efficiency, that we should be asked to consider these amendments within a matter of ten minutes or half an hour of receiving them.

You will recall that when this question of amendments was under discussion at the Dáil before, it was desired that amendments should be in our hands well in advance of the time when they were to be considered. It was agreed that amendments should be handed in to you, at a certain time before consideration by the Dáil, in order that Deputies should have them in their hands for consideration. Obviously, the slightest glance at these amendments shows that they require a very great deal of careful consideration, to reveal exactly their bearing on the Bill of which they purport to be improvements and amendments. I suggest that it is not right that we should be asked to consider amendments to a Bill of such importance without consent, until they have at least been in our hands one or two days in advance of their

being heard and considered in this Dáil. I urge, seeing that these amendments have only just come into our hands within the last ten minutes, in my own case at least, that the Bill to which they are amendments should not be considered to-day, but that it should be postponed in order that we should have time to give that efficient attention to these amendments that obviously they require.

We are dealing with legislation here in very great haste. It might even be said that we have legislation churned through this Dáil. Let us at least give no further or greater colour to that allegation than is necessary, and also let us see that Bills of this major importance should have the fullest consideration, and that all amendments should be fully considered. Because if we take them up in a half an hour from now they cannot receive that previous attention that the amendments should receive:

AN CEANN COMHAIRLE: What question is the Deputy putting to me?

Mr. DARRELL FIGGIS: I am suggesting that inasmuch as these amendments have only come into our hands the Committee Stage of the Public Safety (Emergency Powers) Bill should not be considered until Wednesday in order that we may have an opportunity of more fully considering the amendments.

Mr. GAVAN DUFFY: I desire to draw your attention to No. 13 of the Standing Orders, which provides in terms that the Agenda shall be posted to the Dublin address of each Deputy so as to arrive not later than the first post on the morning of the day for which the Agenda is issued, and that it shall contain the text of all questions to be asked of Ministers and all motions to be proposed in the Dáil, or in the Dáil sitting in Committee.

AN CEANN COMHAIRLE: This Bill, The Public Safety (Emergency Powers) Bill, 1923, was read a second time on Monday last. When the Second Reading had been passed, an order was made that the Bill should be considered in Committee of the whole Dáil on the first day of this week upon which the Dáil would be sitting. In pursuance of that Order made by the Dáil the Bill is now up for consideration.

With regard to the disadvantages

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under which Deputies labour from not having had the amendments put into their hands less than an hour before the Sitting of the Dáil, the facts are these:—I received amendments until Friday, and I received a very large number of amendments. I had them printed as quickly as possible. Deputies now have the amendments in their hands at the earliest moment at which we could give them to them. It is a great disadvantage to make an Order which necessitates taking a Bill without having proper time to consider the amendments. I, personally, do not approve of that practice, because, speaking for myself, I have not had time to give the consideration to these amendments which, if I may say so, I suspect some of them merit. From that point of view I deprecate the taking of the Bill at such a short notice. The Deputies have received the amendments as fast as they could possibly have been got out. The original mistake was the fixing of the Committee Stage for such an early date as to-day. In the circumstances there is nothing which I could say or do, or which I could instruct my staff to do which would give a better result than has been obtained.

MR. DARRELL FIGGIS: In raising this matter it was not my intention to imply any criticism whatever of you or your staff.

AN CEANN COMHAIRLE: I quite agree.

MR. DARRELL FIGGIS: That would have been, and was, very far from my intention. My intention was directed rather to a practical point. While recognising that you and your staff have done all that could have been reasonably expected in the service of this Dáil, I say that, nevertheless, this situation having arisen on these amendments of such grave importance to the Bill, which is of itself of such grave importance, we ought not proceed with the Committee Stage to-day, and that we should not proceed with these amendments until we have had them in our hands for at least forty-eight hours, for careful consideration and comparison with the Bill.

AN CEANN COMHAIRLE: I think the position is we cannot consider the amendments in Committee to-day unless

we can get general agreement to take them, in the circumstances. That is my view.

MR. JOHNSON: May I suggest that the explanation is quite simple. There was no date specified when the Dáil decided to take the Committee Stage on the first day of the sitting this week. It was not known then what day that first day would be. Some weeks we start on Wednesday, and in other weeks we commence business on Tuesday. This week and last week we started on Monday. We had no reason to think that we would start this week on Monday; it might have been either Tuesday or Wednesday for all we knew. The fact that it happened to be Monday, at the desire of the Leader of the Dáil, makes the difficulty of considering amendments so great that the suggestion for postponing consideration at least for a day seems to be a reasonable one.

MR. FITZGIBBON: I do not think the Minister who arranged the Committee Stage of this Bill for to-day is to blame any more than the officers of the Dáil who were unable to get the amendments out in time. It seems to me if there is fault at all it is in the Standing Orders, which enables amendments to be handed in up to an hour at which it makes it impossible for them to be printed, and in the hands of Deputies by the time the Bill comes under consideration. It is open to anybody to hand in a sheaf of amendments up to 11 o'clock on Friday morning, and I think you, a Chinn Chomhairle, out of courtesy to Deputies, did accept some after that hour. At any rate, it is open to Deputies to hand in amendments up to 11 o'clock on Friday morning for a Bill to be considered in Committee on Monday. It is physically impossible to get those amendments set up and printed, have proofs corrected, and have the amendments sent out to Deputies so that they shall have them in their hands on Monday morning. There is no post on Sunday, and it would be absolutely impossible to get amendments properly drafted and handed in due course to Deputies within the time prescribed by the Standing Orders. If there is anybody at fault it seems to me to be the whole body of the Dáil, which when it fixed Standing Orders did not contemplate the possibility of amendments being handed in so late.

MINISTER for LOCAL GOVERNMENT (Mr. E. Blythe): It seems to me it would be better if there were general consent to consider these amendments, because I take it if the amendments are ruled out, and if we go on to the Committee Stage without considering the amendments, it would not serve any useful purpose. It also seems to me that most of the amendments are absolutely clear in their purpose and intent, and could all be well considered without further notice. If we are to convenience the Dáil it would be better have the amendments considered now than have them considered on the Report Stage, or on the Second Committee Stage.

Mr. DARRELL FIGGIS: The Minister speaks obviously and clearly as one who has read the amendments and knows what they contain. That is a great deal more fortunate for him than for the other members of the Dáil who have not considered them, or have not even read them. With regard to your ruling in the matter, I understand consent is required before these amendments can be considered to-day. If consent is to be unanimous, with the greatest reluctance in the world it will not be obtained, because I will object. I believe that we ought not to proceed with the Committee Stage of a Bill of such prime importance as this, until the amendments to it have been in the hands of Deputies, and under consideration for at least two days in advance.

Mr. HUGHES: Has the Deputy who lives in Dublin any consideration for the people who have been brought up long journeys from different parts of the country? I am sure he is just as capable as any Deputy of taking up those amendments and digesting them. I do not think it is treating the country Deputies fairly to be taking them up here and sending them away after half an hour or so. We would be losing a whole day if we do not take those amendments into consideration to-day. It is all very well for the Deputy who has only to cross the road, but country Deputies should be considered.

CATHAL O'SHANNON: Deputy Hughes may be able to digest the amendments, and grasp what they mean within ten minutes or so, but there are many of us who cannot do that. It is not, per-

haps, fair to ask Deputies from the country to attend here and do nothing, but there is other business on the Orders of the Day. Many of us who came from the country did not get those papers, although waiting purposely with a view to getting them. We did not get the amendments until we came into the Dáil. It is hardly possible in such a short time for one to digest the amendments and be able to arrive at a conclusion as to their meaning.

AN CEANN COMHAIRLE: In order to come to a decision I may point out that the position is that exception is taken by Deputies to having the Committee Stage of this Bill taken to-day, in view of the fact that Deputies have not had the amendments which it is proposed to move in Committee in their hands in time. Consent has not been obtained to take the Committee Stage to-day, and it seems to me, therefore, that it would be better if we agreed now to postpone the Committee Stage to a later date. The question is, what date?

Mr. BLYTHE: On a point of order, is not the position simply that the amendments are late but that the Committee Stage is in order?

AN CEANN COMHAIRLE: On the contrary, the position is that the amendments are in time, but that the Committee Stage is not in order as Deputies complain that they have not received the amendments. The amendments were received in time under Standing Orders, but the complaint is that it was not possible in the circumstances to circulate the amendments in time to the Deputies. That is the position. I think that is exactly what the Deputies complain of.

Mr. HUGHES: Do I understand that it is quite in order for Deputies to get any amendment, no matter how contentious it is, by the first post on the particular day on which that amendment is coming forward? Is not that according to Standing Orders?

AN CEANN COMHAIRLE: The Standing Order is:

"The Agenda for each day shall be posted to the Dublin address of each Teachta so as to arrive not later than

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the first post on the morning of that day. It shall contain the text of all Questions to be asked of Ministers and of all motions to be proposed (save such as these Standing Orders elsewhere allow to be proposed without notice). It shall also contain the text of all amendments, whether to motions or Bills, intended to be proposed in the Dáil or in the Dáil sitting in Committee."

Mr. HUGHES: I take it that this Agenda is four hours late and that that is the whole complaint?

AN CEANN COMHAIRLE: Precisely.

Mr. DARRELL FIGGIS: The gist of the complaint is that we received these amendments as we walked into the Dáil and that there was no time to consider them. I do not know whether Deputy Hughes believes that a measure of this importance should be dealt with in that cursory and summary fashion. I do not.

AN CEANN COMHAIRLE: That means that we shall take the Land Bill now and not take No. 2 on the Order Paper until to-morrow. Is that agreed?

Agreed.

Mr. FITZGIBBON: Would it not be necessary to move formally to discharge the Order for the Committee Stage of this Bill to-day? If the motion was moved and carried by agreement some days ago I think that to keep the Journal in order there ought to be a formal motion to discharge the Order for the Committee Stage to-day and to substitute to-morrow.

AN CEANN COMHAIRLE: We can do that when we come to it.

ARREST OF FIREMEN AND GREASERS.

Mr. JOHNSON: I wish to give notice of raising a question on the adjournment, in case the Minister for Defence is not here in the meantime, touching the treatment of certain firemen and greasers on the Patrol Ship T.R. 27, at Killybegs, who have been arrested and who are alleged to have been treated inhumanly. If I saw the Minister for Defence beforehand it might not be necessary to raise the question on the adjournment, but in case he is not here I propose to deal with the matter on the adjournment.

[DAIL IN COMMITTEE.]

LAND BILL, 1923.

(THIRD STAGE RESUMED.)

AN CEANN COMHAIRLE: Amendment 88 to Section 53 had been moved by Deputy Gorey when the Committee reported progress. It is still under discussion.

MINISTER FOR AGRICULTURE, (Mr. Hogan): My recollection is that the discussion on that was completed.

AN CEANN COMHAIRLE: It was not.

Mr. HOGAN: It was not formally completed.

AN CEANN COMHAIRLE: It was not formally completed. Is Deputy Gorey withdrawing the amendment?

Mr. GOREY: I think the Minister replied to that.

Mr. HOGAN: I think the position is, as I said, that the discussion was not formally completed, but we had discussed the matter from every point of view.

AN CEANN COMHAIRLE: In order formally to complete it, shall I put the amendment, or is it being withdrawn?

Mr. GOREY: I think the amendment was withdrawn.

AN CEANN COMHAIRLE: No, it was not. Is it being withdrawn now?

Mr. GOREY: What was the assurance that the Minister gave?

Mr. HOGAN: This was the position: We had discussed the amendment fully. The discussion lapsed, and I moved to report progress. I had taken it for granted that the amendment would be withdrawn. We had fully discussed it. Discussion lapsed, and I moved to report progress.

Mr. GOREY: I think that was the position.

AN CEANN COMHAIRLE: Is the amendment being withdrawn now?

Mr. GOREY: I really forget the assurance I got from the Minister; that is the trouble.

AN CEANN COMHAIRLE: Then you can have it again.

Mr. GOREY: I beg to withdraw the amendment. I think the explanation was satisfactory.

Amendment, by leave, withdrawn.

Question: "That Section 53 stand part of the Bill," put and agreed to.

SECTION 54.

(1) In this Act, unless the context otherwise requires, the expression "subsequent purchase agreements" means agreements entered into or deemed to have been entered into by or with the Land Commission on or after the date of the passing of this Act

Provided that purchase agreements entered into at any time on the re-sale by the Land Commission of land purchased or agreed to be purchased, by the Irish Land Commission or the Congested Districts Board for Ireland, before the date of the passing of this Act, shall be treated as purchase agreements entered into before the date of the passing of this Act and not as subsequent purchase agreements.

(2) The expression "tenanted land" means land held under any contract of tenancy other than a fee farm grant, or lease for lives or years renewable for ever or lease for a term of years of which sixty or more are unexpired, and the expression "untenanted land" shall be construed accordingly

Provided that where land has become tenanted land as above defined by reason of a contract of tenancy entered into on or after the first day of September nineteen hundred and twenty-two, then

(a) if the holding is in a congested districts county, the tenancy shall, if the Land Commission before the appointed day so declare, be deemed void as against the Land Commission and the holding shall vest in the Land Commission as untenanted land; and

(b) if the holding is situate elsewhere, the land shall be treated as tenanted land for the purpose of the provisions of this Act vesting tenanted land in the Land Commission, save as to the price thereof, but shall not be sold

under this Act to the tenant unless the Land Commission certify that the creation of the tenancy was in the interests of the country. If the Land Commission so certify the price shall be ascertained as the land was tenanted land, but if the Land Commission do not so certify the price shall be ascertained as if the land was untenanted land.

(3) The expression "the Land Purchase Acts" shall have the same meaning as in the Irish Land Act, 1909, save that it shall, where the context so admits, include this Act, and the expression "the Land Law Acts" and "the Congested Districts Board (Ireland) Acts" shall have the same meaning as in the Irish Land Act, 1909.

Mr. DUGGAN: I beg to move:—

To insert before Section 54 a new Section as follows:—

"After the passing of this Act, Sub-section (3) of Section 72 of the Irish Land Act, 1903, Sub-Section (1) of Section 29, and Sub-Section (3) of Section 30 of the Irish Land Act, 1909, in respect of improvements effected by the Congested Districts Board or the Land Commission, shall cease to have effect."

This amendment provides that certain Sub-Sections of the Land Acts of 1903 and 1909 shall cease to have effect. The Sub-Sections refer to certain applications to be made to the English National Debt Office. Of course these provisions are now obsolete.

Mr. HOGAN: I am accepting this amendment.

Amendment put and agreed to.

Mr. GOREY: I beg to move:—

In Sub-section (2) to delete all from the word "other," line 47, to the word "unexpired," line 49, inclusive.

The object of this amendment is to extend the benefits of the Bill to a class of tenancy not mentioned in it at all. Sub-section (2) reads: "The expression 'tenanted land' means land held under any contract of tenancy other than a fee-farm grant, or lease for lives or years renewable for ever or lease for a term of years of which sixty or more are unex-

[Mr. Gorey.]
 pired, and the expression ' untenanted
 land ' shall be construed accordingly."

The amendment brings in leascholders, those who hold under fee-farm grants, and those who hold for a long term of years. To my mind they should be brought in. They are a very important section of tenantry. They were never able to avail of the Land Acts, and had to bear a much higher rent than was current during the sittings of the Land Courts.

Mr. HOGAN: The purpose the Deputy has in mind is really to redeem fee-farm rents, and rents payable under long leases. Now, we do not want to alter the definition in that Sub-section. It is the definition in all the Land Acts in respect to this question. At the same time we are prepared to effect the purpose the Deputy has in mind in another way. I want to point out that as far as fee-farm rents, leases for lives, or long leases are concerned they are covered by Section 29 of the Bill, so far as these leases are in Congested Districts counties. That section says that where the owner of a parcel of untenanted land which is vested in the Land Commission by virtue of this Act uses and cultivates the same as an ordinary farm in accordance with proper methods of husbandry, then if the price of the land does not exceed £3,000 the land shall be re-sold to the owner. That is what it comes to. Remember this is untenanted land, fee simple, and will vest automatically in the Land Commission under the provisions of the Bill, provided that it is situate in a congested districts county. We are really dealing with landlords, and under the provisions of the Bill for automatic vesting which applies to the Congested Districts counties these lands will vest. If a man has 200 acres of land held under a fee-farm grant in Co. Galway, and is an ordinary farmer, the holding will vest automatically in the Land Commission as untenanted land. It is not a home farm. He farms it as an ordinary farm. It is not a demesne, and it does not come in under any of the exceptions. Hence it will vest automatically. We are providing that if the value of the holding does not exceed £3,000 it shall be re-sold so that his case is really covered. When the land vests the price is paid, the price remember, not of the fee farm interest,

but of the fee simple. The head rent is redeemed, and when re-vested in him it is re-vested absolutely in fee-simple, subject to an annuity. The definition is important. The advance is to him for the purchase of this parcel of land and vests in him in fee simple. So far as fee farm rents and leases for lives are concerned in the congested districts counties we have such cases covered already. I am prepared in regard to fee farm grants in non-congested counties to put in an amendment something like the following, on the Report Stage.

" Where a parcel of untenanted land situate in a non-congested districts county is held under a fee farm grant, lease for lives or years, renewable for ever, or lease for a term of years of which 60 or more are unexpired at the date of the passing of this Act, and the proprietor of the parcel applies in the prescribed manner to the Land Commission for an advance for the purpose of redeeming the rent created or reserved by the fee farm grant or lease, the Judicial Commissioner shall, after hearing all persons concerned, order the redemption of the rent and all interests superior thereto, and fix the redemption price thereof. The redemption price so fixed, together with such costs as may be allowed by the Judicial Commissioner shall be advanced and paid by means of 4½ per cent. Land Bonds, and distributed by the Judicial Commissioner as if the redemption price of the rent were purchase money of land vested in the Land Commission under this Act, and the amount advanced shall be repayable by the proprietor of the parcel by means of an annuity calculated at the rate of 4½ per cent. on the amount of the advance and the parcel shall (if not already so vested), be vested in the proprietor in fee-simple."

In effect we, at the option of the occupier, redeem the rent. I propose to put in an amendment to that effect on the Report Stage, by recommitting the Bill when the Dáil will have an ample opportunity of discussing the whole question. The amendment will be before Deputies for the requisite time and they will be in a position to raise any points they wish. I should say that we will have to leave the Section as it stands. We are not treating these as tenancies, as it would be incorrect to do so. They have not been treated as tenancies under

any other Land Act. We are meeting the purpose and achieving the same end by this amendment.

Mr. WILSON: Will the effect of this amendment be that a leaseholder who owes one or two years' rent will get a reduction on his rent although he is a landlord?

Mr. HOGAN: Certainly not.

Mr. DAVIN: In a case where a fee farm grant is payable jointly by a number, will the amendment now suggested by the Minister mean that one can buy, whereas the others need not? I mean to say, does it mean that all those involved in the joint payment must agree to buy under the terms of the amendment, or can one buy and the others remain out?

Mr. HOGAN: The fact that a fee farm grant is held jointly makes no difference. The only condition we make is that we shall not sell more than £3,000 worth. I brought this in relief of the land owning class. If we did not put in a limitation we would be dealing with half the landlords in Ireland, and they could get this relief. This is the same kind of land as we are purchasing for the relief of congestion. A very large percentage of the landlords hold their lands under fee farm grants. We are only dealing, perhaps, with a percentage of them who are really in the same condition as tenants; that is to say, they have small parcels of land, and they farm them as ordinary farmers. But the principle is the same. A very large percentage of the very much bigger landlords hold their lands under fee farm grants of this sort. We are redeeming the rent in every case, except where the value of the land is over £3,000. That is the only condition. With regard to Deputy Wilson's point, the answer is—"no." Of course, the provisions in the Bill dealing with a reduction in rent between this and the appointed day does not apply to such persons. None of the provisions of the Bill apply to such persons except insofar as they are land-owners. None of the provisions of the Bill as it stands at present apply to them except insofar as we are purchasing land from them for the purpose of distribution. We are merely inserting this amendment, and it is the first amendment which applies to them from any other point of view. We merely did so

in order to put the small land-owners in the same position as if they were tenants of the same area of land. We are conferring a very big benefit on them by allowing them to retain their lands. Under the Act of 1903, and the Act of 1909, this land might be taken to be distributed. We are conferring a very big benefit on them by allowing them to redeem their rents. As a rule these rents are very much smaller than judicial rents. A small percentage may be bigger, but in the vast majority these are much smaller than the judicial rents.

Mr. GOREY: It is only in the case of a genuine tenant who is holding under a long lease that the Minister may have introduced this. I know that they are pretty extensively held by tenants all over the country as genuine tenancies, and the cases I know of are dearer than the judicial rents. Our object is to have these holdings treated as tenancies under this Bill. They are not getting the full benefits of the Bill. There were provisions in previous Land Acts excluding them. They were expressly put in for the purpose of excluding them, but that is no reason why we should do so. The Minister has told us that they will not benefit by a reduction on the current rents due. Am I to take it also that they will not benefit by the State contribution?

Mr. HOGAN: Certainly, they will not.

Mr. GOREY: That will bear very hardly in cases where there are genuine tenancies, leases for lives and for 999 years, and all that kind of thing. I think the Minister ought to reconsider this matter, because they are the cases of genuine hardship, cases of genuine agricultural tenancies which have come in under this form of lease, the same as other tenants came in under other forms of lease. They are genuine agricultural tenancies, and they are denied the benefits of previous Acts.

Mr. HOGAN: Let us see where we stand exactly. The Deputy's amendment is:—"In Sub-section (2) to delete all from the word 'other' to the word 'unexpired' inclusive." Sub-section (2) reads as follows:—"The expression tenanted land means land held under any contracts of tenancy other than a fee farm grant, or lease for lives or years renewable for ever or lease for a term of years of which 60 or more are unexpired,

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and the expression untenanted land shall be construed accordingly." Deputy Gorey's suggestion is to have the subsection to read as follows:—"The expression 'untenanted land' means land held under any contract of tenancy, and the expression 'untenanted land' shall be construed accordingly." I take it from his amendment that he means to deal with fee farm grants.

Mr. GOREY: Yes.

Mr. HOGAN: And he means to deal with leases for lives renewable for ever, and he means to deal with leases for the terms of which 60 or more years are unexpired. Well, fee farm grants are fee simple lands. Some of the biggest landowners in Ireland hold their lands under fee farm grants. There is no question about that.

A number of very large land owners hold their lands under leases of lives renewable for ever. Deputy Gorey is dealing exactly with the tenures of the land owners whom we are purchasing land from. I agree there is a big distinction; the distinction, however, is in the size of the land, and the manner in which it is worked, but remember he is dealing with exactly the same tenures as the land owners with whom we are dealing in the rest of the Bill, from whom we are taking land. That is the position. No other Bill did deal with them. We cannot regard them as agricultural tenants or tenants in the same sense as judicial tenants. If we regarded them as tenants we would have the extraordinary anomaly that a man would be at the same time both landlord and tenant, or rather he would be getting the provisions of the Bill as a landlord, and for the same land and the same tenure, he would be getting the provisions of the Bill as tenant. That is impossible, and it cannot be done. There is no way out of that. As the Bill stands at the moment, this land vests in the Congested Districts Counties. It vests in the Land Commission for the relief of congestion automatically as untenanted land. There is no question about that. This land under the provision of the Bill as it stands will vest in the Land Commission automatically as untenanted land for the relief of congestion. We are conferring a benefit on the class of cases we are

considering here which they did not get under any other Act, and there is a considerable difference of opinion about allowing them to redeem their rents. It is quite common to have a fee farm rent of £20 on farms of four or five hundred acres. It is quite common to have 2s. an acre on leases for lives renewable for ever. The Deputy sees the thing only from his own point of view. He knows a few small lease holders, and he knows probably a few small fee farms grantees. He is looking at it from that point of view, and he wants to put in provisions in the Bill which would deal not only with these few small lease holders and these few small fee farm grantees, but with practically all the landlords in the country, making them landlords in one section and tenants in another. I do not say for a moment, even in the case of small lease holders, or small fee farm grantees, that there are not rents which are high. There may be a small percentage where the rents are high, but in the majority of cases they are much lower than judicial rents. The reason I inserted this provision, apart altogether from the necessity of making a clear distinction between the land owner and the owner of a fee simple farm, was that if we treated them in any other way it is probable that in fifty or sixty per cent. of cases the annuity they would be paying would be higher than the original rent. That would happen. If the Land Commission is to go down on the holding of a man of thirty or forty acres held under a fee farm rent the Land Commission would have to value it as a non-judicial tenancy if we accepted Deputy Gorey's suggestion, and they would have to value it on the lines of what is its fair value as a non-judicial tenancy, and the procedure possibly would be that they would fix a third term rent which would in many cases be much higher than the fee farm rent. Capitalise that, and the result would be that in the greater number of these cases the annuity would be actually higher than the fee farm rent if the Deputy only saw it. However, we can argue this on the re-committal of the Bill. This would achieve its purpose and do justice more effectively than his own suggestion. What he wants is to redeem the rent at a redemption price. We are not going to treat them as tenants because they are not tenants, and because

we do not want to have the Bill ridiculously drafted. I will put in an amendment like that on re-committal. The Deputy has a copy of it, and we can argue it at length, and have the benefit of a couple of days to consider the whole question.

Mr. GOREY: I agree to that.

Mr. WILSON: In the redemption of these rentals will the Land Commission have regard only to the rent or to the fee farm itself?

Mr. HOGAN: They will only have regard to the rent.

Mr. GOREY: It is quite true there is only one class of people I am interested in, and not the general body at all.

Amendment, by leave, withdrawn.

Mr. SEARS: I beg to move Amendment 91:—"In Sub-section (2) to insert after the word 'unexpired' the words 'or a letting for the purpose of temporary depasturage, agistment, or conacre, or for temporary convenience, or to meet a temporary necessity.'" The sub-section mentions two classes of holdings which are not to be classed as untenanted lands, and this amendment mentions another class that I suggest should be excepted. It is easy to imagine that arrangements might be made for family reasons, and under such an arrangement land might become for a short time liable to be termed untenanted land. These holdings are specified in this amendment, and I beg to move it.

Mr. HOGAN: We argued this question on Section 20, Sub-section (3). The amendment of Deputy Sears is necessary in order to make the Bill consistent. I am accepting it. I think the case for the amendment is quite clear.

Amendment agreed to.

Mr. GOREY: I move Amendment 92: "To add after the word 'two,' Sub-section (2), line 54, the words '(such contract not being a renewal of a previous tenancy).'"

Portion of Sub-section (2) reads: "provided that the land has become tenanted land as above defined by reason of a contract or tenancy entered into on or after the first day of September, nineteen hundred and twenty-two." We pro-

pose to add: "such contract not being a renewal of a previous tenancy."

Mr. HOGAN: I accept that amendment.

Mr. FITZGIBBON: I suggest that when you accept that amendment you should put it in after the words "contract of tenancy." It would read better so.

Mr. HOGAN: Deputy Gorey, I take it, agrees with that.

Mr. GOREY: Yes.

AN CEANN COMHAIRLE: The sub-section would then read: "Provided that where land had become tenanted land as above defined by reason of a contract of tenancy (not being a renewal of a previous tenancy) entered into on or after the 1st day of September, 1922."

Amendment agreed to.

Mr. GOREY: I beg to move to add at the end of paragraph (a) the words "and if the person in possession be dispossessed under this sub-section he shall be paid adequate compensation, having regard to the value of any improvements made by him."

Mr. DARRELL FIGGIS: Before the Minister replies, may I ask whether he has considered the advisability of the deletion of the entire body of words in paragraph (a), and whether it would not really effect his purpose better if it were omitted unless he considers it really essential to the main meaning of the Bill?

Mr. HOGAN: If paragraph (a) were deleted, what would follow after the proviso?

Mr. DARRELL FIGGIS: Paragraph (b) would then take the place of paragraph (a).

Mr. HOGAN: That is, to have the same provision for a congested districts county? That would hardly be fair. There are more reasons against the recent creation of a tenancy in a congested districts county than outside. It might even be perfectly legitimate in a congested district, but there are more reasons for not allowing it in a district where congestion is acute than, for instance, in a county in the Midlands. My own view is that Clause (a) should be left in. I

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take it what Deputy Gorey has in mind is that in the event of any improvement or anything like that being made, the tenant shall be paid the actual value of his improvements. I will undertake to bring in an amendment to that effect on Report Stage.

Amendment, by leave, withdrawn.

PADRAIC O MAILLE: Ba mhaith liom an leas rún so do thairisgint:—In Sub-section (3), to insert after the word "include" the words "any subsequent Act now in force which is by its terms to be construed as one with the Land Purchase Acts and."

Mr. HOGAN: I will accept this amendment; it is necessary.

Amendment agreed to.

Motion made: "That Section 54, as amended, stand part of the Bill."

Mr. JOHNSON: Perhaps upon this motion the question that I want to raise will most conveniently come up. I would like the Minister in charge of the Bill to give me some assurances upon this matter. The question I want to raise is in regard to land in the vicinity of towns. It was pointed out that the 1903 Act provided that where an estate was in the main agricultural and pastoral, towns situated thereon might be included in the sale of such estates. It is said that the proposal in this Bill is retrospective, because there is practically a repeal of the 1903 Act as far as these estates are concerned by the provision that even a holding of itself must be in greater part or substantially agricultural. That may or may not be a correct reading, and I would like the Minister to reassure us upon the matter, and say whether, in the case of tenants who have already purchased under the 1903 Act, their interests have been acquired, or may be acquired under that Act from the Commissioners, and whether the Commissioners are likely to adjudge their present rights and accruing benefits under that Act rather by the new powers they are getting under this Act than by the powers they have under the old Act. That is the case put to me, and perhaps the Minister, who understands it a good deal better than I do, will explain.

Mr. HOGAN: The principle we ac-

cepted in connection with this Act was the principle of dealing with all tenancies both agricultural and pastoral, or which are either partly agricultural or partly pastoral. If they are purely agricultural and purely pastoral, it does not matter whether they were judicial or non-judicial, present or future. We deal with them all. That is the principle we went on, and if we are to call this a Land Purchase Bill, or a Land Bill at all, you could not make the definition any wider. If you wish to widen it, we would have to bring in houses pure and simple. That is the only possible extension. Any further extension would bring in houses pure and simple, apart from land. We are dealing with the holdings agricultural or pastoral, and we deal with them whether judicial or non-judicial. That was the principle we accepted. We could go no further without actually dealing with houses as such. I think that is a sound principle. In any case we would have to re-christen the Act if it dealt with anything else. It is very true that small towns under the Land Purchase Act of 1903, by reason of the fact that they were on estates—towns like Athenry, which was regarded as a village on a big estate—were sold. We are not dealing with a man with a house in a town and no land. The 1903-1909 Acts did not deal with such people to any appreciable extent.

Some people had the good luck to come within the terms of the 1903 Act by reason of the fact that they lived in very small towns which were on very large estates. The Commissioners decided that the fact that the town was on a large estate really made no difference, and held that it was mainly agricultural. We are going a long way further than the 1903 Act. We are selling town parks to the owners. That is at least ten times as great a concession as the advantages which a few small towns got under the 1903 Act. Whether the town is big or small, if a man is the owner of a genuine town park, and has a future tenancy, we are selling to him. That applies to every town, big and small, and considerably outweighs anything that may be urged against the Act by reason of the fact that we do not deal with the owner of a shop in some country town to which there is no land attached. That is my answer to the first part of the question. With regard to the second part, we do

not touch in any way the rights of people who have purchased, whether they be residents in a town or agricultural tenants in the country. We do not interfere with the rights of anyone who has purchased under the previous Acts, with the exception, of course, that under this Bill we propose to have the power to take up even a purchased holding for the relief of congestion, but that does not affect the point which the Deputy raised.

Question put: "That Section 54, as amended, stand part of the Bill."

Agreed.

Sections 55 and 56 put and agreed to.

SECTION 57.

The Land Commission may make rules for carrying into effect the provisions of this Act, and the term "prescribed" in this Act means, unless the context otherwise requires, prescribed by rules made under this section.

Motion made: "That Section 57 stand part of the Bill."

Mr. WILSON: I desire to ask who will make the rules in regard to the Guarantee Fund?

Mr. HOGAN: The Minister for Finance.

Mr. WILSON: Will an opportunity be given Deputies to discuss these rules in the Dáil before they are made? Will the rules be made by the Minister for Finance?

Mr. HOGAN: The Deputy is already in a position to examine the rules, which are in existence. This section merely means that the Minister for Finance will in future exercise the powers formerly exercised by the Lord Lieutenant or other functionary of that sort.

Mr. WILSON: What we want to avoid is that the Minister for Finance shall make the ratepayers pay for the carrying out of these rules.

Mr. DARRELL FIGGIS: As far as I understand the Deputy, what he wants to know is if these rules will be laid on the Table of the Dáil before they come into effect.

Mr. HOGAN: The Deputy, I think, is under a misapprehension. The Guar-

antee Fund, as such, is not altered. The machinery is not altered; it is there. The rules are there, and the procedure is there, cut and dry. We are merely providing that the Minister for Finance shall make the requisitions and do other necessary things of that sort which formerly were done by the Lord Lieutenant of the day. The Guarantee Fund is there—it is the law of the land; and the regulations are there. They have not been altered, and they will not be altered, as far as I am aware. We are accepting the Guarantee Fund as it stands, but are merely providing that in the "regrettable" absence of the Lord Lieutenant the Minister for Finance will do his work.

Question put and agreed to.

SECTION 58.

All moneys required by the Land Commission for exercising its powers under this Act or otherwise for carrying this Act into effect shall (save in so far as such moneys are otherwise specifically provided for by this Act) be paid out of moneys provided by the Oireachtas.

PADRAIC O MAILLE: Ba mhaith liom an rún so do thairisgint:—To insert after the word "Act," line 39, the words "to such extent as may be approved by the Minister for Finance."

Is doigh liom gur tabhactac an leas-run é.

Mr. HOGAN: This amendment, of course, is absolutely necessary. It is only right that the Treasury should have control over those moneys, as they have over other moneys.

Amendment agreed to.

Motion made and question put: "That Section 58 as amended stand part of the Bill."

Agreed.

Sections 59 and 60 put and agreed to.

AN CEANN COMHAIRLE: The First Schedule has already been added to the Bill.

Mr. GOREY: Is all the subject matter of Schedule 1 ruled out?

AN CEANN COMHAIRLE: Yes.

Mr. GOREY: I thought it was only

[Mr. Gorey.]

the first part that was discussed. We did not go on to (a), (b) and (c).

AN CEANN COMHAIRLE: All of Schedule 1 was passed. I found Amendment 96 being discussed when I resumed the Chair. I put Amendment 96, and on a division it was defeated.

Mr. GOREY: I thought you were only putting the first portion.

AN CEANN COMHAIRLE: Amendment 96, "to delete Part 1 of the First Schedule," was moved, discussed at some length, put, and on a division defeated. Amendment 97 was not moved, as it was lost consequentially on the defeat of Amendment 96.

Mr. GOREY: I did not know that. I wish to draw the Minister's attention to the subject matter of (a), (b) and (c), because if I am in order—

AN CEANN COMHAIRLE: It is not in order. The Schedule has been passed.

Mr. HOGAN: The Deputy will be in order on the next stage. It was plain enough in the discussion that he did not refer to the second and third paragraphs.

AN CEANN COMHAIRLE: If the Deputy proposes to amend Part 2 that will bring it under discussion on the next stage.

Mr. DARRELL FIGGIS: As certain portions of this Bill are to be re-committed, will he not have an opportunity to re-commit this Schedule?

Mr. HOGAN: It is open to Deputies to put in an amendment on re-committal, and no one is going to raise any point about it. I am aware that the Deputy did not refer to the other two paragraphs.

Mr. GOREY: I accept that. These matters have nothing to do with the question of price.

AN CEANN COMHAIRLE: If anybody suggested to me, or to my deputy, who was in the Chair, to take the Schedule in parts it would have been done. That suggestion was not made.

Mr. GOREY: We were taking from the middle to the end of the Bill.

Mr. JOHNSON: Are we to understand that unless there are some amendments put to Part 2 it will not be brought into discussion?

AN CEANN COMHAIRLE: I was thinking of the procedure which was already outlined, and of a promise already given by the Minister. We shall have a second Committee Stage, and if amendments are tabled to Part 2 that would enable them to be discussed on the Second Committee Stage. If no amendment is tabled Part 2 cannot be discussed, but on the Report Part 2 can be discussed.

Mr. HOGAN: It is only right to say that the Amendment to Part 1 was discussed for about two or three hours, and it was not the Deputy Chairman's fault or anybody else's fault if Deputies during that long spell did not revert to any other clause.

Mr. GOREY: I must admire the Minister's tactics in taking us from the middle to the end of the Bill.

Mr. HOGAN: That is a most unkind remark.

AN CEANN COMHAIRLE: This will not solve the question. In Committee, if the suggestion is made to me or to the Leas-Cheann Comhairle, and if sufficient reasons are put up to take the Schedule in part or by sub-sections, that will be done. If Deputies do not do that, then they have no cause for complaint. Anyway, there are two further opportunities for discussion.

SECOND SCHEDULE.

Session and Chapter.	Short Title.	Extent of Repeal.
54 & 55 Vic. Cap. 48.	The Purchase of Land (Ireland) Act, 1891.	Section 37, sub-section (3).
3 Ed. VII. Cap. 37.	The Irish Land Act, 1903.	Section 53. Section 54, sub-section (1) (c) the words "or vested in more than one person," and sub-sections 2, 3 and 4.
6 Ed. VII. Cap. 37.	Labourers (Ireland) Act, 1906.	Section 19. From the words "Provided that" to end of Section.
7 Ed. VII. Cap. 38.	The Irish Land Act, 1907.	Section 2.
7 Ed. VII. Cap. 56.	The Evicted Tenants (Ireland) Act, 1907.	Section 3.
9 Ed. VII. Cap. 42.	The Irish Land Act, 1909.	Section 16, sub-section (1).

Mr. DUGGAN: I move Amendment 98: "To insert in Extent of Repeal column, opposite the Short Title, 'The Irish Land Act, 1903,' Section 49, the

words 'or any purchaser from them.' " The section of the Act refers to the registration fee payable under the Local Registration of Title Act. Under this Act every person will be a purchaser either from the Land Commission or from the Congested Districts Board. It means it would be an addition to the sections that are referred to ; it means they relate to that particular Act.

Amendment put and agreed to.

Motion made and question put: "That the Second Schedule, as amended, stand part of the Bill."

Agreed.

Motion made and question put: "That the Title stand part of the Bill."

Agreed.

[DAIL RESUMES.]

AN CEANN COMHAIRLE: The Bill as amended is reported to the Dáil. When will the next stage be taken?

Mr. HOGAN: I suggest Tuesday, 17th July.

AN CEANN COMHAIRLE: We have been endeavouring to get this Bill printed as amended. The printers have already had in hand the matter concluded on Friday evening. I think it would be impossible to have the Bill as amended in Committee in the hands of Deputies until Thursday evening, or possibly Friday morning. It has to be read very carefully, as the Bill has been considerably amended.

Mr. ROONEY: When would the amendments have to be in?

AN CEANN COMHAIRLE: That is the position we were in at the opening of the proceedings to-day. If I accept amendments on Monday for the convenience of Deputies, I cannot guarantee that they will have them in their hands until Wednesday, the day on which the Bill is to be considered. The thing cuts both ways. If I accept amendments for the convenience, say, of Deputy Rooney, on Monday, on Wednesday we may not have all the other amendments put in by other Deputies. We may be in the position on Wednesday which we were in to-day in regard to the other Bill.

Mr. FITZGIBBON: There is no use in giving a long day for the next stage of the Bill, if Deputies insist on their right to wait until the last minute before handing in their amendments.

Mr. HOGAN: Surely every Deputy knows practically every amendment he wants to put in. We have gone through the Committee Stage, the Bill has been discussed, and I take it that only essential amendments will be put in.

AN CEANN COMHAIRLE: If Deputies require to wait for copies of the amended Bill before putting in new amendments, we shall be in a difficulty. If they put them in before they get a copy of the Bill, we might take the next stage on Wednesday week. If the order is made we will carry it out, but Deputies must be clear about their amendments.

Mr. HOGAN: If amendments are in by Saturday, I suppose it will be all right?

AN CEANN COMHAIRLE: Yes.

Mr. DAVIN: The Minister has read out amendments to-day which are not in the hands of Deputies.

AN CEANN COMHAIRLE: We can circulate them.

Mr. HOGAN: I will undertake to have my amendments in by Friday, with the possible exception of one or two that will have to go in by Saturday.

Mr. DARRELL FIGGIS: The necessary alterations for the amendments will make heavy charges on the staff.

AN CEANN COMHAIRLE: My staff are getting inured to what you might call heavy charges.

Report Stage ordered for Wednesday, 18th July.

Mr. WILSON: I would like to ask the Minister for Agriculture if he is going to put in the Bill costs from the date?

Mr. HOGAN: I propose to put in as an amendment the amendment I offered when discussing this question last week.

Mr. GOREY: Is Section 16 to be re-committed?

Mr. HOGAN: Of course it must be re-committed if I put in an amendment.

Mr. O'CONNELL: Would it be possible to circulate the Minister's amendments in typewritten form?

AN CEANN COMHAIRLE: If we get the Minister's amendments on Friday we will circulate them as they are received.

Mr. HOGAN: I take it, it is perfectly clear that no amendments bearing any similarity to those which have already been disposed of can be handed in?

AN CEANN COMHAIRLE: The Minister for Agriculture can place perfect faith in me.

Mr. HOGAN: I am extremely glad to hear that.

Mr. GOREY: I did not quite catch the Minister's remarks in regard to Section 16.

Mr. HOGAN: That Section is being recommitted.

Mr. GOREY: Will it be possible for us to put in amendments to that?

Mr. HOGAN: Not exactly the same amendments.

AN CEANN COMHAIRLE: Perhaps I had better explain this matter. If an amendment is defeated in Committee, that amendment cannot be again put on the Paper for another stage or a further Committee Stage, nor can any amendment which is substantially the same. That is only in accordance with common-sense, I think. When an amendment has been defeated in Committee, the same amendment cannot be tabled for another stage of the Bill, nor can an amendment which is substantially the same as the amendment defeated in Committee be put down for another stage of the Bill or a further Committee Stage. In other words, we can only discuss a particular thing once by way of amendment.

Mr. GOREY: Am I to understand that the 40 per cent. that we put forward in connection with claims for arrears cannot be discussed again, even in a modified form, such as, for instance, 35 per cent.?

Mr. HOGAN: Of course that would be reducing the thing to a farce.

AN CEANN COMHAIRLE: If the Deputy will first put up the amendments, I will rule on them.

Mr. GOREY: I would like some assurance beforehand. The matter was dealt with the last day without very much discussion, and it will not be so the next time.

Mr. WILSON: On the question of the costs dating, as was suggested, from the last day, what would be the procedure suppose we were to suggest the date as from the introduction of the Bill?

AN CEANN COMHAIRLE: If the amendment would have the same effect as an amendment already defeated, it would not be in order.

Mr. HOGAN: The fact is that the Deputies want to have it both ways. Having accepted my amendment in Committee, they want to go back on it on Report.

Mr. DAVIN: Deputy Gorey and other Deputies moved amendments and supported them for a considerable time. The Minister for Agriculture read out certain amendments the exact particulars of which we have not yet got. I am anxious that as soon as possible the amendments which the Minister suggested, and which in some cases were acceptable to the Dáil, should be circulated.

Mr. HOGAN: An undertaking to that effect has been given already.

Mr. GOREY: Am I to understand that this recommittal stage will be taken on the same date as the Report, or what is the procedure?

AN CEANN COMHAIRLE: The procedure is simply that amendments will be received and put down, and I understand from the Minister that he intends to move that all the sections which it is proposed to amend be recommitted. That will mean a discussion in Committee on such of the sections as it is proposed to amend. Instead of taking the matter on report in the Dáil, we go into Committee on Wednesday, the 18th.

Mr. DARRELL FIGGIS: Is it necessary that we should take any resolution to recommit now, or wait until then?

AN CEANN COMHAIRLE: We cannot take the resolution to recommit until we see the amendments.

PUBLIC SAFETY (EMERGENCY POWERS) BILL, 1923.

AN CEANN COMHAIRLE: I take it that it has been decided already to postpone the consideration of this Bill until to-morrow?

Mr. DARRELL FIGGIS: The Orders of the Day for to-morrow have probably been printed by now, and will shortly be in circulation. Would it not be convenient if we took the Committee Stage of this on Wednesday in order not to upset to-morrow's Orders of the Day?

AN CEANN COMHAIRLE: We have adopted the procedure of printing all the amendments in a separate sheet, so that we can follow the Committee Stage of the Bill throughout. These amendments are now in the hands of the Deputies. To-morrow's Order Paper simply contains "Public Safety (Emergency Powers) Bill, Committee Stage Resumed," so there is no difficulty whatever in taking that to-morrow.

[THE ADJOURNMENT.]

Mr. KEVIN O'HIGGINS: I move the adjournment until 8 o'clock to-morrow.

Mr. JOHNSON: In view of the fact that the Minister is not able to be present, I will not now raise the matter I proposed to raise on the adjournment.

AN CEANN COMHAIRLE: The Minister for Defence is present. We will hear him on the question. Does the Minister for Defence wish to deal with this matter now?

General MULCAHY: I have simply a small bit of information.

Mr. JOHNSON: I think, in that case, I will leave it over until to-morrow. If it is necessary to raise it to-morrow, I will do so.

The Dáil adjourned at 4.30.

DÁIL EIREANN.

DE MAIRT, 10ADH IÚIL, 1923.

(Tuesday, 10th July, 1923.)

Cromadh ar obair an lae ar a 3.10 p.m.
Bhí an Ceann Comhairle, Micheál
O hAodha, 'sa Chathaoir.

GEISTEANNA—QUESTIONS.

[ORAL ANSWERS.]

SPIRITS BONDED IN SAORSTAT.

SEAMUS O DOLAIN asked the Minister for Finance whether he will direct the Revenue Commissioners to prepare and lay on the Table of the Dáil a return showing the quantity in proof gallons of spirits remaining in Bond in Saorstát Eireann on the last working day of each month, and that such return be laid not later than the seventh day of the following month, and that it distinguish between home-made and foreign spirits, particulars for the latter being given according to the main revenue headings.

The PRESIDENT (Minister for Finance): The information requested has now been prepared in respect of the months of April, May, and June by the Revenue Commissioners, and will be circulated as a White Paper. Similar information will be circulated monthly in future.

ATHLONE BREAD CONTRACT.

PADRAIG Mac ARTAIN asked the Minister for Defence whether he is yet in a position to state the price per lb. paid for bread in the Athlone area; whether Mr. T. English, of Tullamore, was informed on February 28th, 1923, by the Secretary of the Government Contracts Committee that his tender had been successful; whether following this Mr. T. English did not receive any orders; and, if so, whether Mr. English will receive compensation for breach of contract.

MINISTER for DEFENCE (General Mulcahy): In Athlone the Army bakes its own bread, and the cost is about 3½d. per 2 lb. loaf. Mr. English was informed

that a tender submitted by him was successful, but orders for the particular period covered by the tender were not given to him. He has since received orders. On investigation, it does not appear that any contract was entered into with him out of which a legal claim would arise.

LATE DR. FERRAN'S ILLNESS.

PADRAIG Mac ARTAIN asked the Minister for Defence whether he is aware that Mrs. Frank Ferran was not officially informed of the illness of her husband, Dr. Frank Ferran; and, if so, can he state why official intimation of her husband's serious condition was not sent to Mrs. Ferran; whether a consultant was called to see him; and further, whether an eminent physician, desired by Dr. Ferran's friends, was refused permission to see Dr. Ferran.

General MULCAHY: Dr. Ferran's illness dated from the 4th June. Dr. O'Kelly, brother-in-law of the late Dr. Ferran, was officially informed by telephone on the 8th June that the latter was seriously, but not dangerously, ill. This was considered the most expeditious way of notifying Mrs. Ferran. It was not considered necessary to summon an outside consultant. Dr. Ferran was in the hands of the senior medical officer at the Curragh, a surgical specialist, and one other medical officer. I am not aware that permission was refused for an eminent physician to see Dr. Ferran. Dr. O'Carroll, of Fitzwilliam Square, was, in fact, present for a few hours before Dr. Ferran died at 1.30 a.m. on the 10th June, and he expressed the opinion to Mrs. Ferran, in the presence of the medical officer of the Curragh Military Hospital that absolutely nothing had been left undone to save Dr. Ferran's life.

MEATH SOLDIER'S DEPENDANTS' ALLOWANCE.

CATHAL O SEANAIN asked the Minister for Defence whether repeated applications have been made for dependants' allowance on behalf of Q.M.S. B. McCabe, Elmgrove, Ballivor, Co. Meath, now stationed at Kilcoyne Barracks, Co. Cork; why this allowance has not been paid; and whether the Minister will now expedite payment.

General MULCAHY: I appear to have received only two applications from the mother of Sergeant-Major McCabe, one of which was an appeal against the rejection of her claim. Her application for an allowance was disallowed after due investigation on the grounds that the extent of dependence which in the case of an unmarried soldier is taken to be the amount normally contributed by him to his home over and above the cost of his own maintenance therein for a reasonable period prior to enlistment was less than the minimum required by regulations—namely, 12s. per week—before an allowance may be issued. It should be stated, however, that those regulations are based on the recognition of an obligation on the part of an unmarried soldier to contribute to the support of his dependants a reasonable portion of his Army pay, this portion being calculated at 8s. per week in the case of a soldier receiving ordinary rate of pay.

HILL OF DOWN ARRESTS.

CATHAL O SEANAIN asked the Minister for Defence to state the reasons for the arrest of Christopher Kavanagh, Killucan, on June 12th; whether any charge has been preferred against this prisoner; whether, failing a trial, he will now be released; and whether he can now give a final reply to the question put to him on June 26th with reference to James Keegan and certain other Co. Meath prisoners now in Mountjoy Jail.

General MULCAHY: James Keegan, Christopher Kavanagh, and other men were arrested on the 7th June on suspicion of malicious injury to lands at Hill of Down, and have since been detained. They have not been formally charged. Since the date mentioned the various farms in the neighbourhood have been undisturbed, and this fact tends to confirm the suspicion that they were responsible for the illegalities formerly prevalent there. All except one of the men, James Carbery, have signed an undertaking not to interfere with the property of others, and arrangements are being made for their release, but not for the release of Carbery.

DEPENDANT'S ALLOWANCE FOR CO. MEATH VOLUNTEER.

CATHAL O SEANAIN asked the Minister for Defence whether he is aware

that no dependant's allowance has yet been paid on behalf of Volunteer Christopher Reilly, Ballivor, Co. Meath, at present stationed at Amiens Street, Dublin, and to ask that payment be now made.

General MULCAHY: A claim for an allowance was received from the mother of Volunteer Reilly, but on investigation it was ascertained that she had not, in fact, been dependent on him for a considerable period prior to his enlistment. The claim was, therefore, disallowed.

LISTOWEL DISTRICT HOSPITAL.

SEAMUS O CRUADHLAIOICH asked the Minister for Local Government if he will state the proposed arrangements as regards the Listowel District Hospital.

MINISTER for LOCAL GOVERNMENT (Mr. E. Blythe): The existing County Scheme for Kerry, as it appears in the Schedule to the Local Government (Temporary Provisions) Act, 1923, provides for the establishment of a County Home at Killarney, a County Hospital at Tralee, and small local branch hospitals, for urgent cases only, in other parts of Kerry, to be set up as might be decided upon. After the passing of the Act referred to, the Ministry proceeded to revise the County Schemes on a general plan throughout the country, with a view to putting them on a legally workable basis and introducing uniformity. The Act provided that a month's notice of an intended revision should be given to the County Councils concerned. At the time the notice was served on the Kerry County Council it was not definitely known what branch hospitals it would be best to establish, and the notice made provision for a County Home and County Hospital at the places mentioned in the old scheme, and for such other institutions as the County Board of Health might deem desirable. Under this provision branch hospitals could be established as desired, subject to sanction. The County Board of Health, therefore, made application to have branch hospitals established at Cahirciveen, Kenmare, Dingle, and Listowel. They were notified that these proposals would be considered, and two inspectors have been sent down to report on the local requirements and the accommodation available. The Deputy may be assured that the

[Minister for Local Government.]
whole matter will receive the fullest consideration, and I shall inform him as soon as a decision is arrived at.

HOUSING OF THE OIREACHTAS.

The PRESIDENT: There is a matter not on the Agenda which I ask you to allow me to mention. It is in connection with a letter I have received from the Ceann Comhairle in respect of accommodation for the Oireachtas. We have had some officials from the Board of Works looking at the Royal Hospital at Kilmainham and submitting plans. These plans are now available for examination, and I do not know whether the Deputies have read this letter or not. The last paragraph in the letter deals with the method of bringing this matter definitely and immediately before the Dáil and Seanad. I would agree to the suggestion of the Ceann Comhairle that a number of Deputies might be appointed to a Committee to which the Seanad would also be invited, to appoint members, and, if the Dáil is agreeable, I would be inclined to think that the number of members on that Committee might be a little more than six. I would suggest eight or ten. I would ask the Seanad also to appoint a number of members to examine the plans and to view the site of the Royal Hospital, and report back to the Oireachtas as to the views of the members after they have examined the question as to the suitability of the premises. I think in a condensed form the Ceann Comhairle has put before us very plainly the main difficulties of the housing of the Oireachtas. That, however, is a matter which might be examined by this Committee. We have got to consider it from the point of view of getting available suitable accommodation at the shortest possible loss of time and at the least possible expense. These are the only reasons why the Executive Council has been considering the Royal Hospital. The selection of this is not a matter to which a future Dáil would be committed, if they can find more suitable accommodation, and if they are prepared and have available a sufficient sum of money to spend in order to provide that accommodation. There is nothing to prevent them exploring other fields or getting better housing accommodation for the Dáil and Seanad.

My suggestion would be that on to-morrow we would elect a certain number of Deputies to this Committee, and that we might send a request to the Seanad asking them to do the same thing. We would then be in a position to place all the plans we have got and all the information at our disposal before this Committee.

AN CEANN COMHAIRLE: The suggestion, if I understand the President aright, is to proceed to-morrow to nominate and elect a Committee for the purpose of going into the question of a site and buildings for the Oireachtas?

The PRESIDENT: Yes.

AN CEANN COMHAIRLE: And to send to-day a message to the Seanad acquainting them of our intention, and asking them to appoint a like number on the Committee?

The PRESIDENT: Yes.

AN CEANN COMHAIRLE: Well, strictly in order, to send them a message we would want to know the Terms of Reference of the Committee, and decide how many we will appoint to the Committee.

The PRESIDENT: That is a matter for the consideration of the Dáil. I suggest ten members on the Committee from the Dáil, or if we compromise on your own suggestion and make it eight I would be agreeable. My suggestion is that the election of the Dáil members on this Committee should not take place to-morrow, as some of them did not have notice of this. I know some members of the Dáil have very strong views on the matter. I do not think we should select any particular site until we have the report from this Committee before us. The motion now is, that a number of Deputies be appointed to this Committee from the Dáil.

AN CEANN COMHAIRLE: To go into the question of a suitable site and building for the Oireachtas, and to report to the Dáil?

The PRESIDENT: Yes; and to ask the Seanad to appoint a number of its members on this Committee. The whole Committee would be a Committee of the Oireachtas, and their report would be considered by both the Dáil and the Seanad.

Mr. JOHNSON: I think the suggestion is a good one. I have your definition of the Terms of Reference as you related them a moment ago. They need a Committee to examine any proposals which may, perchance, come before them, not confining the selection to one or other of the present suggestions in case an alternative might be put forward.

AN CEANN COMHAIRLE: Is not that the President's idea?

The PRESIDENT: Yes. I will submit a motion before the adjournment.

AN CEANN COMHAIRLE: Yes, so that we can send a message to the Seanad informing them of the numbers we will appoint on the Committee and the Terms of Reference.

The PRESIDENT: We will do that to-day.

Mr. O'CONNELL: In the meantime we could arrange about the numbers.

AN CEANN COMHAIRLE: Yes; and report progress from Committee, so as to leave some time for discussion.

CENSORSHIP OF FILMS BILL, 1923 FROM THE SEANAD.

Message from the Seanad:—

Seanad Eireann agree to the amendment made by the Dáil, viz.:—

"At the end of Section 3 to add a new sub-section as follows:—'A person shall be disqualified for being a member of the Appeal Board if he has, directly or indirectly, any share or interest in any company or undertaking having as its object or one of its objects the exhibition of pictures by means of a cinematograph or similar apparatus, or the production of pictures capable of being so exhibited.'

with the following consequential amendment:—

'In Section 3 (4), after the word 'death,' occurring at page 3, line 43, and page 4, line 3, the words 'becoming disqualified' have been inserted.'

And as a further amendment insert the words 'for profit' after the word 'exhibition.' "

MINISTER for HOME AFFAIRS (Mr. Kevin O'Higgins): I move: "That

the Dáil agree with the Seanad in the said amendment."

Question put and agreed to.

PUBLIC SAFETY (EMERGENCY POWERS) BILL, 1923.

IN COMMITTEE.

SECTION 1.

It shall be lawful for an Executive Minister to cause the arrest and, subject to the provisions of this Act, to order the detention in custody in any place in Saorstát Éireann of any person

- (a) in respect of whom such Minister shall have received a report from a responsible officer that there is reasonable ground for suspecting such person of being or having been engaged or concerned in the commission of any of the offences mentioned in Part I. of the Schedule to this Act, or
- (b) in respect of whom such Minister shall have received a report from the responsible officer or from the military authorities that the detention of such person is a matter of military necessity in the present emergency, or
- (c) in respect of whom such Minister shall have received a report from the military authorities that the public safety is endangered by such person being allowed to remain at liberty.

Mr. GAVAN DUFFY: There is an amendment before Section 1.

AN CEANN COMHAIRLE: The first amendment on the Paper in the name of Deputy Gavan Duffy is out of order. The statement that anything contained in an Act of the Oireachtas which may be found to contravene the terms of certain Articles of the Constitution shall be void and of no effect is simply a statement of fact. If the words on the Paper were accepted by the Committee, and if a new section were accordingly added to the Bill, the new section would not, in my judgment, effect any alteration in the Bill. The words suggested to be added to the Bill are not, therefore, an amendment.

Mr. GAVAN DUFFY: With reference to that matter, may I put before you the reasons why I respectfully submit to the Chair this amendment is in order. These reasons depend upon the peculiar wording of our Constitution. I entirely ac-

[Mr. Gavan Duffy.]

cept the proposition that such an amendment would be out of order in a case where the Constitution would require specific legislation to alter it. On this point which you raise, incidentally there is raised a constitutional question of the first importance under Article 50 of our Constitution. That Article provides three things—first, that amendments of the Constitution within the terms of the Treaty may be made by the Oireachtas; secondly, that any such amendments, if passed after eight years from the date when the Constitution came into force, must be submitted to a Referendum; and thirdly, the immediately important thing which it provides is that any such amendments may be made within the said period of eight years—that is, the period we are now in—by way of ordinary legislation. I quite accept the proposition that when the Dáil passed Article 50 it had not the remotest intention of suggesting that the Legislature might amend the Constitution without legislation *ad hoc*; that it might amend the Constitution by passing an ordinary law. The effect of the words which we use when we speak of amending the Constitution by ordinary legislation may be to enable a Government or its Law Adviser to argue, and enable a Court to hold, that in any case where a Statute of this Oireachtas offends the Constitution as originally passed, so much of the Statute as offends that original Constitution must be interpreted as an amendment of the Constitution under Article 50. That would be a flimsy kind of way of getting over a difficulty, but one knows not what will be the Government or who its Law Adviser, or who the Judges, when this Act comes to be interpreted, and it is certainly open to argument by a slim lawyer that an Act which appears to offend against our Constitution must have been intended by the Oireachtas to amend the Constitution, in view of the fact that Article 50 says we may amend the Constitution within eight years by way of ordinary legislation. If that be so, and if it be possible for a Judge to decide that any Act which we pass, not intending to amend the Constitution, does in fact amend it, because it happens to contravene it, and because the Oireachtas cannot be supposed to wish to contravene the Constitution, then I submit it is necessary in a Statute of

this kind to state beforehand that we do not intend to amend the Constitution by this Statute. There has been no hint of any official intention to amend the Constitution in introducing this measure. I submit, in these circumstances, in the face of the words “ordinary legislation,” whereby we are entitled to amend the Constitution under Article 50, if we intend to maintain that Constitution it is necessary to make our intention clear in a Bill of this kind. For those reasons I ask you to rule that the first amendment is in order.

AN CEANN COMHAIRLE: I have already given consideration to the question which Deputy Gavan Duffy raises. I told the Deputy yesterday that I intended to rule this particular amendment out of order, and he made that point. I have given the point some consideration, and I am not prepared to alter my ruling that the amendment is out of order. We must assume that the Constitution is a fundamental matter in connection with which all legislation passed in this Dáil must be construed. If we departed from that in our rulings here, it would be difficult to know where we would be going. The amendment is, therefore, out of order.

CATHAL O'SHANNON: I do not intend to suggest that your ruling is not quite correct. Supposing it would happen that any of the provisions of this or any other Act are not in conformity with the provisions of the Constitution, mentioned by Deputy Gavan Duffy, what, then, is the position? Are we to take it that these provisions of the Statute which are not in conformity are legally void, and have no effect?

AN CEANN COMHAIRLE: Yes, if it is so decided. Article 65 of the Constitution says:—

“The Judicial Power of the High Court shall extend to the question of the validity of any Law having regard to the provisions of the Constitution. In all cases, in which such matters shall come into question, the High Court alone shall exercise original jurisdiction.”

Therefore, if, as a matter of law, it is decided that any of the Sections of this Bill contravene the Constitution these Sections will become null and void.

Amendment 2.—With regard to this amendment I have pointed out to Deputy Gavan Duffy that before he proceeds to set up a Parliamentary Committee of certain named persons, we are entitled to know whether any of these persons is, in fact, willing to serve upon the proposed Parliamentary Committee, and if so, which of them? I understand Deputy Gavan Duffy is not in a position to give us that information, and the amendment is, therefore, not being moved. It would, of course, be in place in another part of the Bill if the information is forthcoming.

Mr. GAVAN DUFFY: I am in the position to say that some of the gentlemen have consented, and I am in a position to move the amendment with some of the names. Deputies Sir James Craig, Richard Hayes, Patrick MacCartan and Senator Henry L. Barniville have consented to act upon the Committee. I have been unable to see the other medical gentleman named, so that I shall omit their names for the present.

AN CEANN COMHAIRLE: Would the Deputy read the amendment as he now proposes to move it.

Mr. GAVAN DUFFY: I propose to insert before Section 1 a new Sub-Section as follows:—

“Deputies Sir James Craig, Richard Hayes, and Patrick MacCartan, and Senator Henry L. Barniville, being the members of the medical and surgical professions in the Oireachtas, or such of them as shall be willing to act, are hereby constituted a Parliamentary Committee of inspection,” etc.

AN CEANN COMHAIRLE: The names read: Deputies Sir James Craig, Richard Hayes, and Patrick MacCartan, and Senator Henry L. Barniville, being the members of the medical and surgical profession, or such of them as shall be willing to act, are hereby constituted a Parliamentary Committee of Inspection, with such powers and duties, etc.

Mr. GAVAN DUFFY: I do not think it needs very much argument to commend this proposal to the Dáil. For a very long time, Doctors and others, have been saying, and saying loudly, that there ought to be some method whereby medical men can have access to detention camps, both for the purposes of sanitary control,

and for the purposes of matters affecting the health of prisoners. The Dáil is aware that at present no one, except the official doctors, have a right to visit a prison. If this Dáil determines that it must perpetuate a system of internment without trial, I think it is reasonable that the Dáil should, at the same time, make provision that persons whom we all hold in respect, and who are Deputies and representative public men, and who are members of the medical and surgical profession, should have the right as a Committee from this Dáil, to go to any place of detention, and inspect such place of detention and visit the prisoners. This amendment proposes that they should have the right, at any time, of free entry into such places and of visiting any persons detained therein. I should like to tell the Dáil there is nothing new in that. Under the Statutes appointing visiting justices to prisons, the justices are given precisely that power of visiting any prison within their jurisdiction, and of seeing any prisoners detained therein. It is not an unreasonable thing by any means. On the other hand it is a very necessary thing to secure, if you are to avoid the kind of complaint which inevitably comes out of prisons, that persons in the position of Doctors are not excluded from visiting them unless they be professional servants of the Government. I do not think there can be any objection to the names here proposed. I cannot conceive that there will be any objection to the principle that Deputies who are medical men should be allowed to see the prisoners in the prisons. Undoubtedly, it is a provision which the Dáil ought, in its own interest, if it proposes to proceed with the Bill introduced by the Government, to make sure to have inserted in this Bill. I do not mind much as to the wording. If the Minister accepts the amendment and wants a change of wording it is a simple matter, but I do ask that the principle should be accepted upon all sides of the House.

MINISTER for HOME AFFAIRS

(Mr. K. O'Higgins): I do not propose to accept this amendment. Exception is not taken to the names, though I shall be glad to hear whether it is *qua* medical men and Deputies that people are to become members of this Committee, and if so, whether any medical man who

[Minister for Home Affairs.]

becomes a Deputy would automatically become a member of the Committee. It is the principle that is objectionable. The Dáil set up an Executive Government, and imposed upon it certain responsibilities, and the net effect of this amendment is to vote no confidence in the Executive, and to take from the Executive the powers and the responsibilities which were, I hope after due consideration, entrusted to it. The Department of Government have at their disposal medical men in whom they have confidence. They report to their Departmental Heads upon all matters affecting the health of prisoners and the sanitation of the places of detention, whether prisons or camps. I submit that it is not right, and it is not wise, to ask this Vote of no confidence in these paid officers of the Government, and in the Minister or Ministers to whom they are responsible, and to place their official reports in the position of being criticised or countered by a Committee of this kind. It would be better to say broadly that Deputies do not believe that the Reports of the medical men in the service of the Government are reliable, and that they do not believe that they send, in fact, correct and truthful reports to their Ministers, than to say it in so many words by a resolution of this kind.

CATHAL O'SHANNON: I desire to support Deputy Gavan Duffy's amendment which I do not think the Minister has treated as it ought to be treated. The Minister asks whether it is as Deputies, and as Medical Deputies, that the gentlemen mentioned are named in the amendment, and whether it is to be supposed that in future medical men, who happen to become members of the Oireachtas, would automatically become members of this committee. There is nothing in the amendment to suggest anything of the kind, and there is nothing to suggest an enlargement of the Committee at all. We know, even if we had not the assurance of the Minister, that there could be no reasonable objection to the personnel of the Committee nominated, and that the Minister's objection, as he says, is rather on principle. He says that the effect of carrying this amendment would be a vote of no confidence in the Ministry. That is nonsense, and nothing but nonsense, be-

cause it would mean, if that line is to be pursued, that when the Ministry is pushed by the pretty strong opinion of the Dáil, or of the Oireachtas, it could hold up the whole business by saying, this is a vote of no-confidence. Surely, that is not the way that an Executive ought to treat its Parliament. I cannot see that there is any vote of no-confidence in this amendment at all. In ordinary times, for ordinary prisoners, and by the ordinary procedure, there were Visiting Justices whose duty it was to visit the prison, and to see how things were conducted and to take complaints, if complaints were made by the prisoners. Does anyone suggest for a moment that the fact that these bodies of Visiting Justices were in existence in the past, was an expression of no-confidence in the Government or the Executive or whatever you may call it that was in existence at the time. Of course, not. I suggest that the same applies in this case. If the Oireachtas has got any functions, one of these functions after setting up the Executive Council, is to keep control of that Executive Council, and to keep a check on that Executive Council. That is a thing that no Minister will deny, because it is the strictest Constitutional principle and practice. I can see nothing in Deputy Gavan Duffy's amendment except an effort to better things within the next few months, and to bring about an improvement on what has been going on in the last few months. We know perfectly well that the situation in the country is not all that it might have been. An effort is being made now to come back to normal. Even the Minister's own speeches in favour of this whole Bill had the tendency that it was exceptional legislation to tide over what might be called the transition period. I am of opinion that the tiding over, the going through, of that transition period, from a bad state into a better state when we may expect a resumption of normal activities, a resumption of normal legality and the normal workings of Government and law, should be made as easy as possible, and I submit to the Dáil that one of the things that would help to get through that period of transition easier, would be the adoption of some such proposal as that contained in this particular amendment because it would help considerably to bridge the gulf between the bullet period,

so to speak, and the peaceful period that we at least hope for if we do not exactly anticipate.

MINISTER for EDUCATION (Professor Eoin MacNeill): I just wish to emphasise one point that has been made by the Deputy who has just spoken, and that is that the object in appointing the persons named for the purpose named is to keep control on the Executive Council. It is unnecessary for me to enlarge upon that. A Committee, of, I think, four persons is named, and the Dáil is asked to appoint a Committee of that kind to keep control on the Executive Council.

CATHAL O'SHANNON: The argument of the Minister for Education—

Professor Mac NEILL: I have not argued at all.

CATHAL O'SHANNON: What I say is—that the argument of the Minister for Education is too subtle. He will not get anyone in the Dáil to believe that the purpose of appointing these gentlemen is that they should control the Executive Council, or check the Executive Council. The amendment proposes to set up a Parliamentary Committee, and that Parliamentary Committee like any other Parliamentary Committee has certain powers and duties. It is not right to say, or to suggest, that every time the Dáil sets up a Parliamentary Committee of inspection, that that Committee is going to have control, or to be a check on the Executive Council. It is as a matter of fact, a reporting body to the Oireachtas, and the Minister has not suggested that that is unnecessary. It is not to be entrusted with control of the Executive Council, and of itself it has not the power to check the Executive Council, but the results of its inspection and enquiry may or may not be such as to show to the Oireachtas that some check or some control in these things may be necessary to be exercised by the Oireachtas.

Professor Mac NEILL: May I just say that I used no argument at all, nor did I make any suggestion, but as the Deputy has again spoken, I desire to again draw the attention of the Dáil to the Deputy's own words. His own words, as I noted them immediately after he had spoken them, were to keep a control on the Executive Council, and he added a word which he now feels to have been incon-

venient, and that was to keep a check on the Executive Council. I do not know whether the Deputy was speaking his mind more clearly on the first occasion or on the second occasion. I leave it to the Dáil to decide, but the purpose for which he advocated this amendment was the purpose stated, to keep control on the Executive Council, and to keep a check on the Executive Council.

CATHAL O'SHANNON: I said, and the Minister does not deny it, and no Minister can deny it, that if the Oireachtas has any functions at all, one of its functions is to keep a check and a control on the Executive Council.

Professor MacNEILL: And this is the means suggested for it.

CATHAL O'SHANNON: And that, I repeat, is the strictest constitutional practice, and no Minister will get up and deny that that is so. But Ministers will get up and try to get out of the whole thing by another door altogether. One of the weaknesses, I think, of this particular Oireachtas is a weakness, perhaps inevitable in view of the situation through which we have been passing, and through the wrong line which certain people took, is that this Dáil, or the whole Oireachtas, has not been careful enough in carrying out its constitutional function of keeping a check on the Executive Council.

Sir JAMES CRAIG: I have to admit that I did not read this amendment until I came into the Dáil. As a matter of fact, Deputy Gavan Duffy spoke to me when I came in and I did not know at the moment to what he was referring. I have no desire in the wide world that my name should be associated with any amendment which could be construed as a want of confidence in the Government or in the Executive Council. Deputy Gavan Duffy did ask me a few days ago if I would have any objection to visit the prisons or internment camps if I were asked and I said I should not. That means that I would have no objection whatsoever if the Executive Council asked me to visit them to report upon them. I look on the matter in this way: the Executive Council have a decided duty towards the prisoners. These prisoners may be unwilling guests, but they are guests all the same, and the

[Sir James Craig.]

Executive Council have a duty to see that their health is not impaired or their lives jeopardised by any insanitary conditions. If these insanitary conditions were known to exist then I think Deputy Gavan Duffy would be quite right in pressing the amendment he has down here; if, on the other hand, we are told by the Executive that insanitary conditions do not exist, and that there is no jeopardising of the health or life of the prisoners or of the people in the neighbourhood, supposing an epidemic of some infectious disease were to start, then I do not think we have any right to press on the Government the necessity for any further inquiry into the matter. Let me say again that, so far as I am personally concerned, if the Executive Council had asked me, with others, to inspect the prisons or the internment camps I should have been very glad to do so, but I have no desire in any way to be associated with an amendment that would seem to indicate a want of confidence in the Executive Council.

AN CEANN COMHAIRLE: Before the amendment goes any further I should say that I understood from Deputy Gavan Duffy that he had the consent of Deputy Sir James Craig to use his name in connection with this Committee, and, of course, in connection with the amendment. Is that so?

Sir JAMES CRAIG: I suppose it was my fault that I did not inquire what the meaning was, but Deputy Gavan Duffy certainly asked me would I have any objection to serve on a Committee to inspect the prisons and I said no, but I did not inquire sufficiently into the matter at the time to make it clear.

AN CEANN COMHAIRLE: But you are asked to serve on this Committee?

Sir JAMES CRAIG: I would not serve if the Government assumed that this is a want of confidence in them.

Mr. DAVIN: You should leave it to the Dáil to decide.

AN CEANN COMHAIRLE: When it is proposed to appoint a Committee we cannot have persons names proposed unless it can be ascertained that these persons are willing to act. The question for Deputy Sir James Craig is whether

or not his name remains in this amendment. He may rule that himself.

Sir JAMES CRAIG: May I ask to have my name removed, then?

AN CEANN COMHAIRLE: Certainly. Is the Deputy's name to be removed, then?

Sir JAMES CRAIG: I am asking permission to do that.

AN CEANN COMHAIRLE: Very good. Now, perhaps Deputy Gavan Duffy will inform us whether or not the other persons named, Deputy Richard Hayes, Deputy MacCartan and Senator Barniville have seen this amendment and consented to act on the Committee which the amendment proposed to set up.

Mr. GAVAN DUFFY: I cannot say that they have all seen the actual words of the amendment but Deputy Doctor MacCartan certainly has. I asked Dr. Barniville and Deputy Hayes, and although I do not think he has seen the actual words, he agreed with the proposal.

AN CEANN COMHAIRLE: I told Deputy Gavan Duffy yesterday that unless we got an assurance that the persons named in the amendment were willing to act it would be better to leave over the amendment. The amendment is one which could be moved in a different place in the Bill. It could be moved at a later stage in Committee even, and I suggested to Deputy Gavan Duffy that he should ascertain whether or not these people are willing to act and then arrange with me to move his amendment at a later point in the Bill, inserting the names of persons who have been acquainted and for whom he could speak. It appears to me that that has not been done, and I think we are not in a position to continue the discussion of the amendment now.

Mr. GAVAN DUFFY: May I point out with reference to what Deputy Sir James Craig has said, that the only reason why he wishes to withdraw his name is because this is being taken as a reflection upon the Executive Council, not because he did not approve of the principle originally. It is on account of something which has arisen in the course of the debate. I was very careful not to say anything which would introduce preju-

dice into this matter, and it is on account of something that has happened subsequently that the Deputy has asked to have his name removed.

CATHAL O'SHANNON: Have the other gentlemen whose names have been mentioned yet been informed that the Executive Council would take the setting up of this Committee as a vote of no confidence in them?

AN CEANN COMHAIRLE: The question of order is quite simple. When a Committee of the whole Dáil, or when the Dáil itself, is asked to appoint certain persons on a Committee the Deputy who moves for such an appointment should be able to assure the Dáil that the persons whose names appear on the motion are willing to act, unless in certain cases where our own Standing Orders prescribe that a Deputy may be discharged from attendance and another Deputy substituted. That is not the case here, and it would have been much better had my original suggestion been adopted by Deputy Gavan Duffy, that the whole matter be postponed until full information was available. It cannot be gone on with now.

Mr. DAVIN: I suggest that the amendment itself says "or such of them as shall be willing to act."

AN CEANN COMHAIRLE: Deputy Davin did not note the change. These words have been struck out by Deputy Gavan Duffy.

Mr. DAVIN: One of the Deputies whose name has been mentioned, has not been in this House for a considerable time.

AN CEANN COMHAIRLE: I fail to understand why this matter is not simple. The words of which Deputy Davin speaks have been struck out by Deputy Duffy himself.

Mr. DAVIN: I did not know that.

AN CEANN COMHAIRLE: The amendment is out of order, and cannot be further considered.

Mr. GAVAN DUFFY: Can the matter be brought up at another stage of this question so as to clear it up, as it has not been voted on yet.

AN CEANN COMHAIRLE: If Deputy Gavan Duffy brings up the matter to me again I will consider that.

Amendment by Mr. GAVAN DUFFY:
"To delete paragraphs (a), (b), and (c), and to substitute therefor the following words:—'who is suspected of acting, or of having acted, or of being about to act, or of being capable of acting, or of cherishing a secret desire to act in any manner prejudicial to the public interest, as understood by such Minister.'"

AN CEANN COMHAIRLE: This amendment seems to me to be offered in a spirit of derision. It does not aim at amending the Bill, and the amendment is out of order.

Mr. GAVAN DUFFY: I quite admit that the amendment is not wholly free from a spirit of derision, but at the same time—

AN CEANN COMHAIRLE: Very good. That ends it.

Mr. GAVAN DUFFY: Am I not entitled—

AN CEANN COMHAIRLE: No, the Deputy cannot continue.

Mr. HOGAN: On a point of order—

AN CEANN COMHAIRLE: I shall not hear any points of order on the amendment. Deputy Gavan Duffy must sit down. I have ruled this amendment is out of order, because it is offered in a spirit of derision. The Deputy admitted that he has put the amendment on the Paper as such. I shall hear no further discussion in the matter.

Mr. GAVAN DUFFY: I desire to say—

AN CEANN COMHAIRLE: No; I shall not hear Deputy Gavan Duffy. This amendment is out of order on Deputy Gavan Duffy's own showing and I shall not hear him. I have been told by Deputy Johnson that amendment No. 4 is not to be moved.

CATHAL O'SHANNON: I move: "To delete paragraph (b)." The Section gives power to the Executive Minister to cause the arrest or detention of people in respect of certain reports from responsible officers. In paragraph (a) the report has

[Cathal O'Shannon.]

to deal with persons who are suspected of being or having been engaged in the commission of offences specified in Part 1 of the Schedule. Paragraph (b), the deletion of which I am moving, deals with the detention of such persons as a matter demanded by military necessity. I submit military necessity can only refer to armed revolt, or to things that would partake of the nature of armed revolt. These things, I think, are fairly covered in Part 1 of the Schedule, which says "an armed revolt against the Government of Saorstát Eireann; threatening, coercing, assaulting or attempting to threaten, coerce or assault any person in furtherance of any such revolt; destroying, damaging or removing, or attempting to destroy, damage or remove any property in furtherance of any such revolt." I claim that paragraph (a) sufficiently covers the powers sought for by the Minister. Under paragraph (a) what is defined as a responsible officer can report that he has reasonable ground for suspecting certain people of being engaged in or concerned in the commission of some of the things which I have just read out. How does that differ from the matters referred to in paragraph (b), where the detention of such persons is demanded on the ground of military necessity? I think (b) is wider in certain respects than (a). I think it is so wide and so undefined that it is not a safe proposition at all. No one will deny the Executive Council or an Executive Minister such powers as are necessary in cases of military necessity. Military necessity is defined in the Schedule, and it is provided for in paragraph (a), but over and above that the Minister wants power for an Executive Minister or for a responsible officer, or the military authorities simply to say that even if citizens are not caught within the trap of paragraph (a) they can still be caught within the trap of paragraph (b), on the mere argument of military necessity.

Mr. O'HIGGINS: Section (a) defines that a person may be arrested and detained in custody "in respect of whom such Minister shall have received a report from a responsible officer that there is reasonable ground for suspecting such person of being, or having been, engaged or concerned in the commission of any of the offences mentioned in Part I.

of the Schedule." The offences mentioned in Part I. of the Schedule are: "An armed revolt against the Government of Saorstát Eireann; threatening, coercing, assaulting or attempting to threaten, coerce or assault any person in furtherance of such revolt; destroying, damaging or removing or attempting to destroy, damage or remove any property in furtherance of any such revolt." Section (b) asks power also to detain people in respect of whom a report has been received that their detention is a matter of military necessity in the present emergency. There are people, and possibly they are amongst the most dangerous, who do not place themselves open to the suspicion of having been engaged or concerned in the commission of definite acts, and yet it can well be conceived that the detention of such persons may be considered a matter of military necessity. It might be invidious to give examples, but the people who have done the most harm for the past twelve months are not the people who themselves were concerned or engaged in the commission of acts of destruction. People who have gone around the country inciting young boys and young girls to the most wanton and the most criminal acts did not themselves take part in these acts. It is to be presumed that they considered their lives had a special value for this country; that they must in no circumstances be put to the hazard, but that the cannon fodder whom they used as material were of a different kind from them. Section (a) as I read it covers only people who are active, or reasonably suspected of being active. Section (b) covers a very different class of person, but whose detention might well be conceived to be at least as necessary as those covered by Section (a).

CATHAL O'SHANNON: I think the Minister if he reads the three paragraphs will find that the people he wants to get at will be brought within a fairly wide net in paragraph (c). It reads: "In respect of whom such Minister shall have received a report from the responsible officer or from the military authorities that the public safety is endangered by such person being allowed to remain at liberty." I think that fairly covers the class of people that he wants to get at on the lines he has just been mention-

ing. It seems to me that to maintain paragraph (b) in the Section is going a little beyond the intention of the Bill, to put it at its best. In (a) and (c) the Minister has got plenty of power to do what he says he wants to do. In addition to all those powers he wants—and I hope he does not want it merely because it will enable Courts to say that the matter is now in a statute—further power on the ground of military necessity. I would urge upon him to accept the amendment and to confine his powers to the powers given in paragraphs (a) and (c).

Mr. O'HIGGINS: I am not convinced by the Deputy's argument. Paragraph (b) of that Section has a definite value. The situation in the country may improve progressively. On the other hand it may improve progressively, say over large areas, and remain bad in other areas. We must have that power if the situation in a particular county or a particular area demands it—the power of arrest without cause stated or even without cause shown. The Deputy will understand me when I say he might have normal or even sub-normal conditions through large tracts of the country and have a very lively situation amount-

ing to a state of war in a particular area. In such an event we would claim the power and the right, and we ask the Dáil to endorse it, of arrest and detention of certain persons without cause shown to a Court or to the Advisory Committee mentioned in the Bill. In the case of the arrest of such persons it would be definitely stated that their arrest was made on military grounds and as a matter of military necessity.

In Section (a) the matter would be on a different footing; we would have to show that there was reasonable grounds or suspicion to justify arrest or detention of such persons. Section (c) is also a matter showing justification. Section (b) is meant to deal solely with the military position in the fullest sense. The Deputy will tell me that such powers exist *ipso facto* where there is a state of war. But you are dealing with what may prove to be a patchwork position. You cannot legislate for the kind of patchwork situation that may develop in the country. A clause saying that arrest and detention may be justified on grounds of military necessity is asked for in the Bill and I think it ought to be given.

Amendment put.

The Dáil divided Tá, 12; Níl, 45.

Tomás de Nógla.
Riobárd Ó Deaghaidh.
Tomás Mac Eoin.
Seoirse Ghabhán Uí Dhubhlú.
Tomás Ó Conaill.
Aodh Ó Cúilacháin.

Seamus Eabhuigil.
Liam Ó Dainbín.
Cathal Ó Seanáin.
Domhnall Ó Muirghreasa.
Risteárd Mac Fheoráin.
Domhnall Ó Ceallacháin.

Níl.

Liam T. MacCosgair.
Donchadh Ó Guaire.
Gearóid Ó Súilleabháin.
Uáitéar Mac Cumhuill.
Seán Ó Maolruaigh.
Seán Ó Duinnín.
Micheál Ó hAonghusa.
Domhnall Ó Mocháin.
Deasmhumbaín Mac Gearaith.
Seán Ó Ruanaidh.
Micheál de Duram.
Seán Mac Garaidh.
Risteárd Ó Maolchatha.
Pilib Mac Cosgair.
Domhnall Mac Cárthaigh.
Maolmhuire Mac Eochadha.
Sr Seamus Craig, Ridire, M.D.
Gearoid Mac Giobáin, K.C.
Liam Thrift.
Eoin MacNeill.
Liam Mac Aonghusa.
Pádraig Ó hÓgáin.
Pádraic Ó Máille.

Seosamh Ó Faoileacháin.
Seoirse Mac Niocaill.
Fionán Ó Loingsigh.
Seamus Ó Cruadhlaoich.
Cristóir Ó Broin.
Risteárd Mac Liam.
Caoimhghlin Ó hUigín.
Proinsias Bullin.
Seumas Ó Dólaín.
Aindriú Ó Lannáin.
Liam Ó hAodha.
Proinsias Mac Aonghusa.
Eamon Ó Dúgain.
Peadar Ó hAodha.
Seumas Ó Murchadha.
Seosamh Mac Giolla Bhride.
Liam Mac Sioghaire.
Tomás Ó Domhnaill.
Earnán de Blaghd.
Uinseann de Faoite.
Domhnall Ó Broin.
Seamus de Burea.

Amendment declared lost

Mr. MORRISSEY: I beg to move Amendment 6:—

In paragraph (b), line 51, after the word "emergency" to insert the words "for reasons stated in the report."

The object of the amendment is to compel the person authorising the arrest to certify exactly why he is doing so. As the paragraph stands, it is much too wide. It is much too easy to say that a person is dangerous without saying why he is dangerous.

Mr. O'HIGGINS: I cannot accept this amendment, but I trust I will be able to satisfy the Deputy as to the reasons for the refusal. I would accept, for instance, Amendment No. 8, because that deals with paragraph (c). The amendment which the Deputy now moves deals with (b) and paragraph (b) is intended to cover military necessity—a state of war or armed revolt, whether strictly local or general—and military necessity—a state of war or armed revolt—absolutely excludes inquiry. It vests in the military authorities the power of and discretion as to arrest and detention, and rules out the possibility of inquiry by the Court. Military necessity is a temporary matter. There can be inquiry when it ends, but while it lasts there can be no inquiry. It would be worse than futile to insert in connection with paragraph (b) that the reasons for the arrest and detention must be stated in the report, seeing that the whole tenour and intent of that Sub-Section is bearing on a military situation, which the Courts have always held themselves debarred from inquiring into. I will accept Amendment 8.

Mr. JOHNSON: The statement that has been made by the Minister rather shows that this Sub-Section (b), or at least paragraph (b), is unnecessary. He has contended that this deals only with the case of military necessity. I think, elsewhere, he has stated in the same Bill that the Executive Minister is not to withdraw from the military authorities the power which they already have in excess of military necessity. He is asking us in this Section to duplicate the power which the military authorities already have and to hand similar powers over to an Executive Minister without defining which Executive Minister. He asked also that that Minister may have power to place in custody any person in

respect of whom such Minister shall have received a report from the military authorities that his detention is a matter of military necessity. Surely, the whole case for the power that has already been exercised by the military authorities is that they did not require the sanction or approval of the Minister. Military necessity justified it all. The argument of the Minister would quite well justify a motion to delete this paragraph (b) entirely. But the Amendment that is moved simply asks that that Minister, if he is going to have these powers, should not have them unless the military authorities who ought to make representations to the Minister, can state the reasons. That is at least as important in paragraph (b) as in paragraph (c). The Minister has to decide. He may be a Minister under this Section who knows nothing at all about military affairs. Any Executive Minister receiving representation from a military officer that any person should be detained as a matter of military necessity may order it. The powers sought for in this are entirely too great to be handed over to any Executive Minister. It is surely bad enough when we have to admit in times of military necessity, and in a case of military necessity the military have been given these powers. To come again and to ask that the Executive Minister may cause the arrest and detention of a person because the Military officer or the Military Authority, who already had the power to arrest and to detain and do what they will, should send representations to an Executive Minister to have the same power to detain without giving any reason, is asking the Dáil to do more, I think, than the Dáil should do. It seems to be a very simple request that if the military did not feel justified in arresting and detaining under the powers which they already have, and which you do not intend to remove from them, that if they do not feel justified in acting on those powers, and they want to cover their responsibilities by asking the Minister to order their arrest, that they ought, at least, to state the grounds why they desire such arrest and detention. One has the right to assume that the military authorities refrain from exercising their powers in such cases of military necessity. They hesitate in that way and desire rather the cover of the

civil administrator that they should satisfy that administrator with reasons stated. The Minister did admit that such a Minister may arrest persons who are at present at liberty, and that he shall require that the reasons shall be stated is also, to my mind, an admission that such reason ought to be given in respect of those whom they desire to detain as a matter of military necessity. There is obviously here a way of allowing the military to relieve themselves of certain responsibility and to hand over that responsibility to the Minister, and such a Minister may accede to the request of the military authorities without any reason being stated but simply that it is military necessity. To me it is quite an obvious deduction that if it is a matter of military necessity there is no need for them to go to an Executive Minister for the powers to do that which they claim and have been acting upon—the claim which they already have. The least that we ought ask for is that the reasons should be stated when any representations of that kind are made to the Minister.

Mr. O'HIGGINS: We could talk abstractions and split hairs on this matter indefinitely. But Deputies should realise that we are endeavouring to deal with an agreed situation, and that there are at the moment all the elements in the country which could create at any time a strictly military situation in, say Ballymacslattery, while the rest of the country slumbers in peace. We are endeavouring to pass out of a military situation, and it is not a duplicating of powers but the explicit preservation of the powers of the military in the event of a military situation arising that is sought. What we want is the explicit reservation of the powers of the military. I am advised that such an explicit preservation is necessary, lest the Courts should think that in legislating along the lines of this Bill that we are thereby depriving or seeking to deprive the military of the fullest powers in order to deal with situations that may arise. You may have in the country a patchwork situation. There are arms and explosives stored in various parts of the country and a purely localised military situation may arise. The military in that area must have power to make arrests, and not only to make arrests but to have the power of detention, into

the legality of which the Courts may not inquire while that situation continues. It might well be that the persons arrested within the zone of a military situation might be sent elsewhere for detention, and what we are asking is that it should be made clear within this Bill that once an arrest is based upon military necessity the Courts should not hold themselves entitled to inquire into the legality of these arrests. This is important by reason of military necessity. The person arrested may be sent into a more peaceable area for detention. The arrest was made because a military situation existed within a certain area.

If Deputies will come down to bed-rock and take cognisance of the facts throughout the country—the facts within their own knowledge—they will realise that we ought not to legislate in any way that might be interpreted hereafter as depriving the military of all or any of the powers they ought to have in dealing with the state of war or armed revolt, remembering that a state of war or armed revolt may be confined to a very small area indeed, and it might take place at a time when it would be difficult to convince any Court that the country generally was in a condition of war or armed revolt. You may have purely localised difficulties and situations. In such a situation the military ought not to feel themselves fettered or hampered in the making of arrests, and the Courts ought not to hold themselves free to inquire into the legality of acts committed by the military in such a situation. That is all that particular Sub-section is intended to provide for.

AN CEANN COMHAIRLE: Amendment 5, which was to delete paragraph (b), was lost. The last two speeches have been directed towards the question of the deletion of the paragraph. Amendment 6 deals with a more restricted matter, and I would like arguments to be directed towards that amendment specifically.

CATHAL O'SHANNON: It is to be presumed that the powers to be exercised by the Minister arising out of this military necessity would bring with them, I think, a new definition of military necessity if the Minister's arguments are correct. Now, the amendment would help the military to make that new

[Cathal O'Shannon.]

definition of military necessity. I can conceive in a certain area a number of military officers receiving reports that a particularly emotional person at one or two meetings made some thrilling speeches threatening all sorts of things in the district or parish if certain things were or were not done, if the amendment were accepted declaring those statements to constitute military necessity. Everybody in the Dáil knows that there is at certain times a certain value to be put on certain statements; at other times a different value would be put upon similar statements. I can see that such statements would not in any ordinary reasonable person's mind constitute a real threat against the peace and would not, except by a very long stretch of a local officer's imagination, constitute a military necessity. If the amendment were agreed to and made part of the paragraph, such a claim as I have outlined when military necessity exists, would have to be stated by the military authorities to the Minister, and the Minister would be able to judge from other sources whether there was validity in the claim of the military that necessity existed. I could conceive other cases where it sometimes happens, even in the best regulated and most courageous and coolest commands, that people occasionally get the wind up. A case of ordinary shooting, not normally to be considered anything like a revolt against the State, could take place, and it could be claimed by the local military that it constituted a threat and such a breach of the peace as to bring about a military necessity. We could instance numerous cases like that; but in any of those cases, if the amendment were accepted, those reasons would require to be stated. A district might be quite peaceable with no particular incident happening in it, and there might be nothing except the bare statement of the military that a military necessity existed in the district, parish or county. On that bare statement any Executive Minister would be entitled to take action for detention. The Minister says he is advised that he requires explicit preservation of the powers of the military in the Bill; but has he not got the powers? The amendment is quite a reasonable one in my opinion, because it merely asks from the military some

justification for their asking the civil authorities to exercise this power. It should not be in the power of any Executive Minister to accept the bare statement of the military authorities that in their opinion a military necessity exists in the district.

General MULCAHY: The desire of the Executive is to retain the fullest possible power to make use of its military weapon to deal with the present situation. We do not want a new definition of military necessity. The Dáil is quite aware as to what military necessity is when we come up against it. We quite accept the definition of military necessity that the last speaker quoted for us—that is, armed revolt and things that would partake of the nature of armed revolt. Where you have a situation in the country that you have here when you are passing definitely from a position of very serious armed revolt, when you have a considerable number of arms scattered throughout the country, when you have a considerable amount of information as to what is passing underground amongst those people who have dumped their arms, the Executive cannot tie its hands in any way from utilising at least the full prerogative that has already been authorised to the military force. We are, as we have said, desirous of passing from a situation in which you will have to make use of military force to a situation that will be completely in the hands of the civil authorities. But we would prejudice the passing from one position to another if we allowed ourselves to be obstructed in any way, or if we gave any loophole at any critical time that would prevent the military force from being used. The situation has been such that the fullest possible use of the military force has unrestrictedly been made available as far as the power to use it goes, and it would be a serious disadvantage in a particular case if, in making use of the powers that derive to the Executive in the case of military necessity, you had to explain or make a statement as to why you considered that this was a special case of military necessity. It is the desire of the Executive, dealing in the most satisfactory way with the situation, not to prejudice itself when it realises that a military situation exists and to be in a position of doing anything it sets itself to do in a matter of military

necessity, and that the military authorities have full power to act in their own particular way.

Mr. DAVIN: The Minister for Home Affairs, in submitting arguments for his opposition to this amendment, said that they were endeavouring to pass out of the military situation. Now the Minister for Defence comes along and states that the Executive are anxious to retain the fullest possible power to use the military weapon to deal with the situation. The two statements appear to be conflicting to an extent, at any rate. If they are not, there is certainly a very patent desire on the part of the Executive Council not to divorce itself from the power of military domination in dealing with the position that is now normal at any rate. The Minister for Home Affairs also said it would be well that Deputies, in speaking to this amendment, should confine themselves to facts within their own knowledge. Now, about six weeks ago I had occasion in my own area to enquire into the reasons for a number of arrests. I saw the local officers when I was down there, and may I say there was a change of officers about the time these arrests took place. I was personally acquainted with one individual who rendered very useful service, and held a very prominent position in the I.R.A. during the Anglo-Irish War. I had full knowledge of his movements, and had good reason to know that he had nothing whatsoever to do with any kind of opposition to the present Government. He was approached, at the beginning of the outbreak in June last year, to fight on the Irregular side, and he said quite frankly to the alleged leader of the Irregulars that at the time he took an oath to the Republic he never took an oath to shoot his neighbours. Now, this particular alleged leader was arrested about six weeks ago, and when arrested he was got in possession of notices ordering his neighbours not to pay their dog licences, whereas he himself had a receipt in his pocket for the payment of his own dog licence. When brought to the military barrack he made a number of statements against other people who did not follow his own lead, and upon the statement of that individual a number of law-abiding people, including the individual I refer to, was arrested. I went into the matter very closely, both locally with the military officers and in Portobello, and

one of the reasons given for this other man's arrest was that he was six months on the run. Now, everybody in the area knew quite well that the man was living in his own house for six months, and was quite accessible to the military, who were as well aware of his movements as anybody else. I think an amendment of the kind proposed here would provide against a repetition of such arrests by the military authorities, and if individuals are arrested upon silly pretexts of that kind, they will at least be in a position to see who is the person who gave the information for their arrest and in support of their detention. After all, one has got to consider that there are a large number of men in prison at present on suspicion; it is admitted on all sides by members of the Executive Council; and when you consider that there are such men in prison, you have to consider the effect of their arrest and detention upon their relatives, and in some cases there is no genuine reason for their arrest. It is not only upon the individual himself that the effect will be caused; it will go right down through the family, and will bring in a number of people in opposition to the activities of the Government who otherwise would not be influenced in that direction. If reports, therefore, are available from the military authorities giving the reasons and the grounds for the arrest of the people, then it will be seen by the military headquarters that a case such as I refer to should not be relied upon, and should not be a reason for detention any longer than necessary of individuals such as I refer to. That is a case I know of my own personal knowledge, in which a number of wrongful arrests have taken place simply because of the spite of a local Irregular against a man because he would not follow his particular views. There may be many such cases, and I think it is desirable, in the interests of good government, that individuals of that kind should not be detained upon the questionable information of people who might be rightly arrested themselves.

Mr. GAVAN DUFFY: The Minister for Defence objects to the proposed amendment on the ground that it would obstruct the military. One should not be surprised to hear that objection, because it is the same objection that is made by the military chiefs in every part of the world where there is trouble.

[Mr. Gavan Duffy.]

What, after all, is he asked to do? He is asked to consent to put into a private report the reasons justifying the detention of A.B. as a military necessity; that is all he is asked to do. The matter has a bearing upon another section which the Minister may have overlooked. It has a bearing upon the question of appeal. I consider the Appeal Committee here proposed to be nugatory, but I am in hopes that it will be changed before this Bill is finished, and that is why I allude to the matter. If the amendment proposed is accepted the Appeal Committee before whom men detained on military advice may come will have some little thing to go on; it will have the reasons alleged by the military authorities for the arrests to go upon. If the amendment is not accepted what will the Appeal Committee have? As far as I can see, the Appeal Committee will have absolutely nothing except the statement that Mr. A.B.'s detention was a matter of military necessity. Sub-section (2) of Section 4 makes provision for an appeal by a person detained by order of an Executive Minister or by the military authorities. So it is intended that persons detained by the military authorities shall have this right of appeal. But, suppose anyone takes the trouble to go before the Appeal Council after having been detained by the military authorities, what happens then? It is true the Minister has to make regulations, but there is nothing to indicate that he will make regulations compelling the military authorities to disclose their minds to the Appeal Council. That point was made perfectly clear by the Minister for Defence. What will happen, then, before the Appeal Council? The Minister for Defence or his representative will hand in his certificate saying A.B. is detained as a matter of military necessity in the present emergency, and that will close the matter. If the case of A.B. were to go before a Law Court, and if the Minister were entitled to intern on a vague reason of that kind, the Court would say, "We cannot go behind the Minister's certificate." The Court would decide that the case of A.B.'s detention was a matter of military necessity, and that they could go no further. But how much more will the Appeal Council, which is not a judicial body, be bound by the Minister's certificate to that effect? If the Appeal Council is nuga-

tory now it will be much more nugatory if the cases of persons detained by the military as a matter of military necessity are not safeguarded in such a way that the detained person can find out what he is detained for, and that the Appeal Council can find out what he is detained for. It is not clear under this Bill whether a detained person is expected to prove his case before a case is proved against him before the Appeal Council, but if he has to prove nothing, if he only knows that he is detained in general terms on the grounds of military necessity, some such words as are proposed by the Deputy who moved this amendment are obviously essential. The words are essential if you are going to give the Appeal Council any power to make a real inquiry as to the detention of a person who, the military authorities say, has been interned on the grounds of military necessity. If you are going to set up an Appeal Council you must give that Council the right to inquire whether or not there is any military necessity for the detention of such a person. Otherwise, why appoint an Appeal Council? Is it unreasonable to ask that the Appeal Council should have the right to know exactly why so and so has been detained? If it is, they cannot decide his case, because with the Bill as drafted, and without this amendment, they will have nothing to go on except the mere statement that the military authorities consider that the man should be detained as a matter of military necessity, and the military refuse to say anything more. The result of that will be that the Appeal Council, in effect, will find themselves debarred from giving any judgment upon the case except that the man is properly detained because the military authorities say so. Surely that is not the intention of the Government, and surely they intend the Appeal Council to be able to make a real investigation in the case. If they do they must put something in the Bill to show that they intend to do that; they must put some words in the Bill giving the Appeal Council the power and the possibility of investigation which it does not get under the Bill as drawn.

General MULCAHY: I am happy to think that I am strengthened in my opinion with regard to the attitude we should take up by the opinion expressed by Deputy Gavan Duffy, that the same provisions as we propose were made by

military authorities in all parts of the world. Many aspects of the present situation, however, were rushed upon us, so that we could not consider the experience in other parts of the world, and we had simply to deal with circumstances as they arose according to our own judgment of them and our own common sense. With regard to the Appeal Council, it is not a Council to which the Government will appeal to allow them to retain this, that or the other prisoner. This Appeal Council is the Council to which a prisoner, held for any reason, may make an appeal as to why he should or should not be detained. It seems to be in Deputy Gavan Duffy's mind that the Appeal Council, in this particular case, would be provided with such material as would enable it to try the Government in the matter, and not the prisoner. The Appeal Council, if presented with a case that a prisoner is interned because of military necessity, will approach that particular case from that particular point of view, and will take any statement the prisoner has to make in regard to his own connections or take his appeal and consider it as a whole. If there is an appeal then to the Minister for Home Affairs, and if there are any representations made to him, you will have his opinion as well as the opinion of the Minister for Defence in deciding whether the appeal is such as would warrant release or further detention.

Mr. GAVAN DUFFY: What material will the Minister for Defence present after that?

General MULCAHY: The Minister for Defence will present them with the fact that here is a prisoner that the military authorities have recommended to be interned as a matter of military necessity.

Mr. JOHNSON: I hope the Minister for Defence will pardon me if I remind him that he is speaking here as the Minister for Defence, and not as the head of the Army.

General MULCAHY: I never lose sight of that fact, and I hope the Dáil generally understands it.

Mr. JOHNSON: I am quite sure of that; but when the Minister defended the action of the military chiefs in Ireland by a reference to the military chiefs in all parts of the world he spoke of "we." I

think we of the Dáil ought to remember that the very existence of an Assembly of this kind owes its origin and continuation to the necessity for defending the citizen against the Executive and against the military chiefs. That is the very reason for the existence of Parliament. The case made in favour of the amendment seems to me to be supported by every speech that has been made in defence of the Bill as it stands. The amendment asks that any report which the military authorities may submit to the Minister regarding the detention of a person, whose detention in the minds of the military authorities is a matter of military necessity, shall contain reasons why such a person should be arrested. That is a very mild and simple request. It is not asking that you should be able to produce proof that would satisfy a Judge and a Court as to the guilt of such person. That is not the claim made in the amendment at all. It is that when a report is made some reasons shall be given. There may be reasons, very blunt and very crude. They may be very unsatisfactory reasons to everybody else but the Minister who is appealed to, but at least they will be reasons that will, at some future time, be capable of being referred to, and that is an important matter. There should be at least some statement in support of the detention of the prisoner as to why representations have been made that he should be arrested. What is meant by a report? It is simply a formal demand that such a prisoner shall be arrested. It cannot be that, because the military, presumably, will be the persons arresting. Surely the very sense of the paragraph itself, which speaks of a report from the military authorities would be presumed to state some reasons? Otherwise it would be better to say a demand or a request. I think my memory serves me well when I recall that the President for one, and other Ministers also, I think, have made it clear—have assured the Dáil time after time—that amongst those who have been arrested and detained in the past months there is scarcely one against whom there is not good and sufficient reasons for his detention, though not, perhaps, evidence which would justify a conviction in a court. In several cases we have been assured that there are good and sufficient reasons which justify detention. All we desire, in this amend-

[Mr. Johnson.]

ment, at any rate, is that some reasons should be stated for the arrest and continued detention. No, that is not even what we are asking. We are asking that when, at the instigation of the military authorities, an Executive Minister shall order an arrest and detention, the Minister shall have some reasons stated to him. One would think that the Minister would require to have some reasons stated before he would accede to such a demand. Surely we are not to accept the view that Ministers are to refuse to order the detention of a person when such a detention is demanded by the military authorities without having some grounds for refusing to detain, and in such a case will they not look for reasons? Similarly, when a Minister is asked to consent to the arrest and detention he will, I have no doubt, if he intends to maintain his position as a Minister, require that some reasons shall be stated. The Minister for Defence, if he is the Minister indicated, will require to have some reasons stated by the subordinate military officer. I shall be surprised to learn that he intends to require the arrest and detention of a man without having some reason. Are we justified in saying that no military officer is capable of allowing other reasons than military necessity to influence him? Even if there were one per cent. of possibilities of that, it would justify a requirement that a reason should be stated before such military officer would demand of a Minister that a particular citizen should be arrested and detained. Deputy Gavan Duffy had called attention to the fact that a later section provides for the establishment of an Appeal Council, and this Appeal Council is to be set up to inquire into the case of any detained person who applies, and report the result of their inquiries. The first thing the Appeal Council would ask, I would imagine, would be, "Why has this man been detained?" and would naturally look for the report for the grounds of his detention. It may be that such a person was known to associate with some other person. It may be that the military authorities had grounds for suspecting that such a person might be dangerous. Even those would be reasons stated as required by the amendment. But at least there could surely be no objection to asking that a Minister, before consenting to the arrest of a citizen of this State

and the detention of such a citizen at the request or the demand of the military authorities, should require from those military authorities some semblance of a reason. The Bill, if allowed to pass in its present form, will mean that all that is required is for a military officer to demand that such a person shall be arrested, and that the Minister then may refuse without justification, or may consent without justification. He may refuse without a reason having been given him as to why the arrest should have been demanded, or may consent to the arrest without a reason having been given him by the military authorities. I would ask the Minister to reconsider his attitude on this. There is nothing that I can see which would justify the acceptance of this provision under paragraph (c), which does not apply in equal strength to the claim for a report to be presented in paragraph (b). I think, as a matter of fact, that it is in the interests of the Ministers—it is at least some protection for the Ministers—that they should be satisfied that the military authorities have some grounds, however slight, for calling for the arrest and detention of any person; and, as I have already said, in so far as those who have been arrested in the past have been detained, every statement made by Ministers has assured us that there have been good reasons for their detention—not evidence of guilt which could be proved in court, but at least grounds for detention. All that is asked in this amendment is that these grounds shall be stated. I do not think that there is any reasonable objection to the inclusion of that amendment in the Bill.

Mr. O'HIGGINS: I might simplify this matter by taking a concrete case. Let us assume that within the six months which constitute the lifetime of this Bill the country generally has passed into a situation in which the Courts are prepared to say definitely that a state of war or armed revolt does not exist, and let us assume that after that time a military situation does arise in some Command—Athlone, let us say—localised to that Command area or even to a small portion of it, and the military authorities in that area take action in the course of which arrests are made. Prisoners, possibly, are sent up from that small area to Dublin or elsewhere. We are not prepared to give any Court or any Committee any higher ground for the

detention of those prisoners than that their arrest and detention was deemed to be "a matter of military necessity arising out of the state of war or armed rebellion existing in the area bounded as follows." It does not follow that there will be no report. It is most likely that there will be a report. In point of fact, within the past ten or twelve months a report accompanied every person to the base to which he was sent, a report much on the lines of the report that the Deputy himself has suggested. But we are not willing, by setting it out here in this Bill, to base the legality of the arrest and detention of the prisoners on any statements that might be contained in that report.

Mr. JOHNSON: That is not required by the amendment at all.

Mr. O'HIGGINS: We are not prepared even to lend colour to the implication that the arrest is based on anything than on the statement of the military authorities of that area that they deem the arrest a matter of military necessity. You cannot place the military in a particular area in a situation when they may feel that the arrests they make or the things they do are going to be reviewed by a Court while that situation lasts, and any verdict or any pronouncement made upon them. It is universally recognised that you cannot do that, and that you ought not to do it, and we will not write into this section of the Bill words which might convey to anyone the idea that the contrary is the case. What is the reason for the arrest and detention? The reason is that the responsible military authorities in an area in which, mind you, a state of war or armed revolt exists consider that that person ought to be arrested and detained. That ought to be a sufficient reason while that situation exists. When it ends the question of the legality of the person's detention can be raised and inquired into, and appropriate action taken. But for the duration of that war situation there must and can be no such inquiry, and we will not lend semblance to the view that there can and ought to be such an inquiry by writing these words asked for into this particular sub-section. We are quite clear in our own minds as to that. I think Deputies ought to understand that we are dealing with a transition period; that we are trying to pass into a civil

from a military situation. But, at the same time, all the elements and circumstances exist which make it necessary for us to preserve explicitly the powers that the military might well need to deal with the military situation that might crop up anywhere throughout the country. We are advised that such an explicit preservation of powers is necessary lest the Courts might think that in legislating along the lines of a Bill such as this the intention was in any way to limit or remove these powers.

CATHAL O'SHANNON: The conclusions of the Minister might be valid if the statements he has made just now, and also earlier in the evening, were embodied in the paragraph, but they were not.

Mr. O'HIGGINS: We will not write in these words. We are quite clear as to the inadvisability of writing in in that sub-section (b) a reference to reasons stated in the report, because it might lend semblance to the view that the issue of arrest and release should turn and be weighed on some reasons set out in some report to the Ministry by a military officer. The detention will not be based on any other reason than that the responsible military authorities dealing with the military situation consider that that man ought to be arrested and detained. No Court, Committee or Tribunal will get, or ought to get, any other reason than that this is a military situation, this a military necessity, and is paramount and all sufficient while the military situation exists. If we were to write in these words into the sub-section it would read as follows:—"It shall be lawful for an Executive Minister to cause the arrest and, subject to the provisions of this Act, to order the detention in custody in any place in Saorstát Éireann of any person," and then, coming to Sub-section (b), "in respect of whom such Minister shall have received a report from the military authorities is a matter of military necessity in the present emergency, or (c) in respect of whom such Minister shall have received a report from the responsible officer or from the military authorities that for reasons stated in the report the public safety is endangered by such person being allowed to remain at liberty." We are not going to bring reasons stated in a report before any Court or Committee.

[Mr. O'Higgins.]

and the answer to any Court or Committee that would attempt to inquire into the legality of the detention of A.B. would be that Major-General so and so, who is commanding in that area, in which a state of war or armed revolt exists, considers that that person ought to be detained.

CATHAL O'SHANNON: That reduces the whole thing. It was the point I was about to raise when I gave way to the Minister, because I understood him to say that it is no use flogging a dead horse, and that it is better to let the thing go to a vote. The conclusions which the Minister has come to would be valid if the statements he has been making were in this paragraph, but they are not. The Minister says they will not put any reasons before any Court. We quite understand that from the whole attitude of the Ministry on the Bill, that one of the purposes of the Bill is to enable the military and the Ministry to put up a case in the Courts when action is taken for *habeas corpus* that there is a statement by the military that a military situation exists. But the paragraph does not deal with the military situation at all. The paragraph deals with the military necessity for the detention of a person. The two things are quite different. Even in times of normal peace there is power in the paragraph given to the military, and in co-operation with the military to an Executive Council Minister to detain any person whom the military certified or whose detention they state is a matter of military necessity. It would be quite another and a different thing if it were a statement from the military that in an area in which this person resided or was carrying out activities there was a state of war or a military situation. But that is not the position of the paragraph at all. The paragraph only deals with the case of military necessity for the detention of a person, and that is mainly why reasons are wanted, and reasons ought to be stated, by the military why the detention of that person is a military necessity. We could all understand the position if the military in an area declared that in that area the normal law must be suspended because there was a military situation, a threat to the general peace, or a state of war or something approaching a state of war, such as ordi-

narily would be sufficient to satisfy the Judges in the courts. But that is not the case here at all. It is not the case, as the Minister suggests, that Major-General So-and-So states that a military situation exists——

Mr. O'HIGGINS: It might shorten matters if I intervened for a moment. I am quite prepared to add to that sub-section some words such as "whenever a state of war or armed revolt, local or general exists." As I see it, a military necessity can only arise out of a military situation. A military necessity cannot simply come as a bolt from the blue. It would always, in point of fact, be interpreted as capable of arising only from a military situation. What I am endeavouring to visualise here is that even after the Courts would have considered that a state of war and armed revolt no longer existed in the country, there might be a local eruption in which arrests would have to be made, and there could be no question of circumstantial statements of reasons for those arrests. Those arrests must be based sheer on military necessity. I am prepared to add to that Sub-section (b) words making it quite clear that that sub-section is only intended to cover a state of war or armed rebellion, be it local or general.

Mr. JOHNSON: The offer of the Minister certainly removes some of the objections, because I think he now sees that the Bill as framed merely would require an understanding between an Executive Minister and the military authority as to what was a military necessity to authorise them to arrest and detain any citizen. The military necessity might well be a matter concerning discipline in a regiment or the offence of any rather flush individual who wanted to treat the soldiers. It might be a military necessity to keep discipline to a satisfactory state, and all that would be required would be for the Minister who happens at the present time to be also the head of the Army to agree with himself that such a person should be arrested. The Minister in charge of the Bill will please bear in mind that while he has in mind, no doubt, six months, and a continuation of the outlook, shall I say, of the present Ministers, when you put a Bill upon the Statute Book anything may arise in regard to a change of Executive authority.

Mr. O'HIGGINS: That, of course, is a platitude.

Mr. JOHNSON: Anything may arise and new persons might wield the new power with an entirely different spirit. We are legislating for whoever may be in power within the next six months, and it is well that we should safeguard the citizens from whoever may be in power. Certainly the offer of the Minister will remove some of the evil. It will not remove the desirability of having the reasons stated in any such report. But with the insertion of those words some of the dangers of the clause, as it at present stands, will undoubtedly be removed.

AN CEANN COMHAIRLE: What is the position? Is the Minister going to move this amendment now or later?

Mr. O'HIGGINS: I will move it on Report.

Mr. DAVIN: In dealing with this Bill or this amendment you have to keep in mind the situation created by the arrest of men previous to the adoption of this amendment, and I would like to know whether the Minister for Defence is prepared to produce the report from the local officer in the case of those who have been arrested since the state of war could be said to have passed away.

AN CEANN COMHAIRLE: Neither the paragraph nor the amendment refers to persons already in custody.

Mr. DAVIN: I said we would have to bear that in mind.

AN CEANN COMHAIRLE: Yes, but we must keep to the amendment. Neither the paragraph proposed to be amended nor the amendment goes into that question.

Mr. DAVIN: The Appeal Council might be used by—

AN CEANN COMHAIRLE: The Appeal Council comes on later. We can discuss it when we come to it.

Mr. DAVIN: I think the production of a report has a bearing on the prisoners before the Appeal Council.

AN CEANN COMHAIRLE: The question of prisoners already in custody does not arise at all. This is power to order the detention of a person in respect of whom such Minister shall have received a report.

Mr. DAVIN: Perhaps the Minister is already in a position to report in regard to a person who is now interned.

AN CEANN COMHAIRLE: There are going to be any amount of opportunities of raising this point on this Bill. This is not the opportunity, and the Deputy cannot go on.

Mr. DAVIN: I want to ask the Minister in charge of the Bill what check there is on a report received from a local officer as to the correctness or otherwise of that report. What check is there at the headquarters of the Army upon the reports, or what opportunity is there of proving that the report is incorrect? If people are arrested as a result of wrong information supplied from the local military authorities, no provision is made for a remedy. I think this is an opportune moment to ask the Minister what provision he intends to make to deal with a case such as the one I cited, and which may not be an exceptional case.

Mr. O'HIGGINS: The Deputy should put down a question for the Minister for Defence on that subject.

CATHAL O'SHANNON: Deputy Morrissey, who moved this amendment, is not present at the moment, but I understood from him before he went out that if the Minister would add the words which he read out a short time ago he would be prepared to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

AN CEANN COMHAIRLE: Did I understand the Minister to say that he was accepting Amendment 8?

Mr. O'HIGGINS: Yes.

AN CEANN COMHAIRLE: Has the acceptance of Amendment 8 any effect on Amendment 7?

Mr. O'CONNELL: No. I move Amendment 7. "To delete paragraph (c)." In paragraph (a) of this section the Minister has taken power to arrest and intern any person who is suspected of being engaged in the commission of any of the offences mentioned in the Schedule. In paragraph (b) further powers are taken in case of military necessity to detain any person—that is, when a military situation or a state of war exists in an area. In paragraph (c) the powers that are claimed seem to me

[Mr. O'Connell.]

to be altogether too vague and too wide. It provides that any person may be arrested and detained on the authority of a responsible officer. And we must remember what the definition of "responsible officer" is in the Bill. He is a military officer not below the rank of captain. If any such officer makes a statement to the effect that the public safety is endangered by reason of a certain person being allowed to remain at liberty that person can be arrested and detained. That, in my opinion, is a very serious inroad on the liberty of the subject. It does not require that the person to be imprisoned or detained shall have been engaged in war or in preparing for armed revolt. Then, different officers may have different views and ideas as to what constitutes a danger to the public safety. I could quite conceive a case in which a politician, advocating a special and possibly peculiar brand of politics, decided to descend on a district and put up posters calling on the people of the locality to attend a public meeting. It is conceivable that the local captain or superintendent of the Civic Guard might possibly think that this politician was a danger to the public safety, and ask that he should be interned. This paragraph, coming after the two paragraphs we have just dealt with, is altogether too vague, and gives altogether too great power to the Executive Council, and also places too much power in the hands of subordinate military officers. It is a dangerous infringement of the liberty of the subject, and I move for the deletion of the paragraph.

Mr. O'HIGGINS: The Bill admittedly constitutes an infringement of the liberty of the subject under certain circumstances. The case that is put forward for it is that a situation exists in the country which demands that such powers be conferred on the Executive, in the reasonable hope and pious expectation that they will be used with due discretion and discrimination. Now, as to A, B and C, A and C may be taken as being rather civil. B deals with a military situation and deals only with arrests made by the military as a matter of necessity arising out of such a situation. Therefore, let us compare A and C. A confers the power of arrest with regard to a person concerning whom the Minister shall have received a report

from a responsible officer that there is reasonable grounds for suspecting such person of being or having been engaged or concerned in the commission of any of the offences mentioned in Part 1 of the Schedule, and Part 1 of the Schedule deals with armed revolt against the Government, threatening, coercing, assaulting, or attempting to threaten, coerce or assault any person in furtherance of any such revolt, and destroying, damaging or removing, or attempting to destroy, damage or remove any property in furtherance of any such revolt. C differs from that. It does not deal with armed revolt or with definite acts of violence against person or property, but conceives the possibility of a person embarking on a course which would constitute a danger to the State, which is in its infancy, and which is barely recovering from a criminal onslaught more bitter and more determined than any onslaught that took place against previous administrations.

An Leas-Cheann Comhairle at this stage took the Chair.

Mr. O'HIGGINS: Deputy O'Connell put a hypothetical case of a man advocating a peculiar class of politics in a particular area. Let me put a hypothetical case. Suppose a combination of men were to arise in the country propagating the non-payment of anything—a most popular creed, because it is in accord with the natural leaning of human nature—for instance, the non-payment of rates or rents or taxes or shop debts. That does not constitute an armed revolt against the Government of Saorstát Éireann. It does not constitute any violent assault on the person or any destruction or removal of property, and yet it would constitute a problem that would threaten the very existence of the State and the very foundations of society and civilisation. In such circumstances I would deem it eminently justifiable, in all the existing conditions in the country, to arrest and detain, for a period persons preaching such a doctrine. I will accept Amendment 8, which provides that the reasons for the detention shall be set out in the report in regard to paragraph C. But beyond that I could not meet the Deputy. I consider that powers of this kind are necessary in the peculiar circumstances of the moment.

Mr. GAVAN DUFFY: This is one of

the most pernicious clauses—I refer to Section 1 (c)—in a very mischievous Bill, and the Minister has not said much to defend it. I could have understood the Ministry, however much I might disagree with them, coming before the Dáil and saying, “There are certain people whom we ask power to intern for specific reasons.” That is not the position taken up by the Minister. The position is, he wants to be able to intern more people at present at liberty, without any reason given, unless you can call a reason a vague statement that a detective officer thinks a person is a danger to the public safety. This is not the kind of moderate Bill that one could have understood a Ministry, taking the views the present Ministry does take, introducing at this stage of the proceedings. If this particular section is examined, it will be found to be nothing more or less than a vote of confidence in the military authorities. The previous sub-section dealt with further arrests by the military authorities. Why should it be necessary for civil authorities to intervene in what is pre-eminently a military matter? After all, any reasons which would justify internment in time of civil war or in the subsequent period are reasons which partake of a military character. You cannot justify recourse to procedure of this kind for other than military reasons, and it seems to me an amazing thing, after the ten months’ fight that we have had, for the civil authorities to come before the Dáil and ask that they should have the power which the military authorities have been exercising as a matter of military necessity. It cannot be a matter of civil necessity that the civil authorities would exercise this power. It is essentially a military matter, and why do the civil authorities intervene?

I cannot regard this sub-section as otherwise than an attack upon, and as an expression of want of confidence in, the military authorities, unless it is that imitation is the sincerest form of flattery. The effect of this sub-section is to put into the hands of the C.I.D. officer the power to have any person interned. That is what the Dáil is being asked to agree to on the grounds that the liberty of such persons endangers the public safety; and observe that no court will be entitled to go behind the certificate of the detective officer. His statement will be enough, with such reasons as he may give. What-

ever the reasons, be they good or bad, if this Bill passes no Court can go behind them, because the Dáil will have invested the C.I.D. officer with the powers now asked. This is a signal instance of the belief of the present Ministry that force is the cure for everything. “Force and more force.” Where is it going to lead them? They do not even suggest any particular specific reasons which might in a given case justify the civil authority in intervening. I do not imagine the existence of any such reason, but if there be any case in which the military could be told that this affair is no affair of theirs, and in which the Dáil could be told that the civil authority is to have unheard-of powers, that case should be specifically made clear. Why does the civil authority ask for those extraordinary powers? In an earlier stage of the debate An Ceann Comhairle ruled that we could not have an amendment making mockery of the Executive. That I quite understood, but happily we are allowed to criticise the Executive in debate. I put it to the Executive and to the Dáil that if a case can be made for such a provision as this Sub-section (c), Section 1, we ought to have something definite instead of this vague statement that any C.I.D. officer of certain rank may take action if he thinks that So-and-so remaining at liberty would be a danger to the public safety. In truth and in fact, is not the provision which we are asked to adopt equivalent to saying that any person may be arrested who is suspected of acting, having been or being about to act, or of being capable of acting or cherishing a secret desire to act in any way the Minister or his servants consider a danger to the public safety? What is the difference? Assume your C.I.D. man does his duty to the best of his ability; is he a proper judge of whether or not A B is to be deprived of trial before a Court? If A B is to be interned for military reasons, let the military deal with him. It is a highly dangerous precedent to allow the civil authority to intervene in a matter of this kind. It undermines the whole principle upon which civil liberty, which we ought to have in this case, is based in the Constitution. What business has the civil authority in intervening? It is not merely a question, you will observe, of people already in prison. It may be hundreds and thousands more. There is no limit. On what grounds are those powers

[Mr. Gavan Duffy.]
to be given? Because certain officers think that certain people are a danger to the public safety? That is not good enough, strong enough, nor definite enough. If the Dáil passes a Bill of this kind, it is entitled to something more definite and concrete. The Minister asks us to look at the concrete facts. I ask him to make his Bill more concrete. If he desires to force this Bill through the Dáil, let him do himself the justice of putting concrete proposals in for an extraordinary and utterly abnormal Bill. We had lately a statement from the Publicity Department of the Government to the effect that some 300 persons per week had been released during the past four or five weeks, but we had no statement showing how many persons had been arrested during that time. Is it not a fact that a good many are being arrested, and is it not a fact that it is intended to arrest a good many more?

Mr. HOGAN: Certainly.

Mr. GAVAN DUFFY: Then that is a fact? If you are going to arrest many more, you must justify yourselves in so doing. If it be necessary to arrest many more, it should not be impossible for the State to show cause. It is not showing cause. Simply because such-and-such a police officer thinks it is desirable to intern a person, that person is interned.

Mr. HOGAN: The Deputy complains that internment should be ordered on the report of the C.I.D. officer. What is wrong with the C.I.D. officers? Have they ever made a mistake?

Mr. DAVIN: Hundreds.

Mr. HOGAN: The Deputy laughs and asks for a concrete instance. Let him give a concrete instance. When have the C.I.D. made mistakes?

Mr. JOHNSON: Look up your own returns.

Mr. HOGAN: It is an easy and a cheap thing to get up here as a super-idealist and make charges against the C.I.D. or the military; but I hope there is sufficient sense left in the Dáil and sufficient recollection and remembrance—I know there is sufficient sense and recollection in the country—to know the work the C.I.D. did for the last nine months. The C.I.D. was the force that prevented the cur from burning his

neighbour's house. The C.I.D. here in Dublin, more than any other force of the same size, prevented the cur—and I use the word expressly—from burning his neighbour's house and calling himself a Republican, and from going into a shop and robbing an unfortunate girl who was behind the counter, and doing all this as a Republican and an idealist.

Mr. JOHNSON: Is this on the amendment?

Mr. HOGAN: Deputy Gavan Duffy attacks this Clause because we are giving power to a C.I.D. officer.

CATHAL O'SHANNON: A "responsible officer."

Mr. GAVAN DUFFY: And in time of peace.

AN LEAS-CHEANN COMHAIRLE: I take it that the C.I.D. officer referred to is a "responsible officer."

Mr. HOGAN: This is not a *tour de force* of mine at all. I put it as hard facts.

Mr. GAVAN DUFFY: It is more like fireworks.

Mr. HOGAN: Fireworks is a good word to use in this connection. The C.I.D. did more to stop the fireworks than any other force in the country. Then we are told that force is no good in dealing with these matters. Is it or is it not a fact that we are dealing with a force of which we have had nine months' experience? They are men who have done their duty like men, men who have done a great deal for the things that are above any political ideals—decency, honesty and manliness between man and man. Now, you come to the end of it and you are told in a superior tone of voice that the C.I.D. are a sort of filibusters, whose word nobody should take, that they have not been in Oxford and Cambridge, that they have not University degrees—

Mr. O'HIGGINS: Or a trousers press.

Mr. HOGAN: Yes, or trousers presses, and hence ought not to be trusted. The C.I.D. have shown themselves reliable men. They have shown that they are competent to do their duty, and they have done more for common honesty and decency than any other force.

CATHAL O'SHANNON: We are not discussing the C.I.D.

Mr. HOGAN: That is the very point that has been made—that the C.I.D. are not responsible officers, and that they are not men who should be allowed to give a report on which the Minister should act. If Deputy Gavan Duffy is allowed to make this point, surely, in common decency, someone should be allowed to answer him.

Mr. DAVIN: This is not the Second Dáil.

Mr. HOGAN: This is not the Second Dáil. I want to know did one of the Labour men stand up and protest when Deputy Gavan Duffy was attacking the C.I.D.?

Mr. JOHNSON: On a point of order. did he attack them?

Mr. HOGAN: Yes, by implication. Deputy Gavan Duffy does not usually attack people directly; he does it by implication.

Mr. GAVAN DUFFY: I am so used to those reflections, that I do not comment upon them.

Mr. HOGAN: We are told force is no remedy. Why should we be asked to argue that at this hour of the day? Was force a remedy for what was going on for the last year? What remedied that? Did force stop the house burning? Will force stop the criminal who wants to get rich quick? I was attacked even in the Dáil for confounding Republicanism with ordinary criminality. I am trying not to do that. This Bill is dealing with ordinary criminals.

Mr. GAVAN DUFFY: It does not say so.

Mr. HOGAN: This aims at dealing with men who burn their neighbours' houses and who rob banks. We are told force is no remedy. Why we could be told that, after the things of the last six months, beats me.

Mr. GAVAN DUFFY: I said force was no remedy in time of peace.

Mr. HOGAN: Deputy Gavan Duffy, of all the Deputies in the Dáil, cannot understand how it is that the civil authorities want legislative authority and legislative power to intern without trial. He cannot understand that. He says the military could do it. I remember Deputy Gavan Duffy getting up in the Dáil time and time again and pointing out

that we should have passed legislation for the purpose of enabling the military to deal with these matters, that they had no power to intern the people last January and last October and December in the height of what we will call "the war." We were told that the military had not this power, that the Dáil should have passed legislation to give them the power. Now apparently that is all right. Times are changed. We want a different thing now, and hence admissions can be made in respect of what happened a couple of months ago. But we were told then that the military had no power to deal with these things without legislation. It is within the recollection of every Deputy here that the Deputy said these things. Now it is admitted that the military have that power in time of war. The Executive Council will be very glad to hear that. They will be very glad to hear that we were perfectly right, while the war was on, in interning prisoners, notwithstanding all that Deputy Duffy and others said to the contrary.

Mr. GAVAN DUFFY: If this is intended to be an interpretation of what I said, the Minister should state expressly what I did say. I need hardly point out it is no such thing.

Mr. HOGAN: I am stating expressly what was said, and let the Deputy contradict it if he can.

Mr. GAVAN DUFFY: It is not worth contradiction.

Mr. HOGAN: Deputy Gavan Duffy got up here in the Dáil while the war was on, in my recollection, and pointed out the necessity for legislation in order to enable the military to intern without trial. Everyone remembers that. Now he tells us it was all right. We are glad to have that cleared up. He says the military had the right. Now he cannot understand why we should not leave this thing to the military, why we would not leave internment to the military and not give power to the civil authorities to do it. He knows it already—because a state of war does not at the moment exist. Perhaps I am going a little too fast in saying that—but in a month's time a Judge may find as a fact that a state of war will not at that moment exist. Hence the military will have no power to intern. The Deputy is a lawyer, and knows as well as I do the meaning of

[Mr. Hogan.] that. If a Judge should find in a month or two that at that moment a state of war does not exist, every lawyer knows what the result would be. What are we providing for? The Irregulars, through their leaders, have stated that the arms which were dumped all over the country are to be used at the first opportunity. We all know that it is quite possible, and even probable, that a momentary peace may be organised with a view to getting out the prisoners in order to begin again. They have stated they are going to begin again. They have examined the statutes very carefully, and, like Deputy Gavan Duffy, they know that if in a month's time the Judge decides that a state of war does not exist, then a *habeas corpus* application would have to be granted and the prisoners would have to be released. They would then be all out through the country, including the gentleman who wrote out asking his pal to get him a gun or two, that he wanted to interview a few bank managers and railway clerks. He, too, would be out, and would have his gun. It would be an infringement of the liberty of the subject to keep them in. We dare not advert to the fact that these men might get out in a month and might start again in two months and do what they are stating they are going to do. That is all too subtle for Deputy Gavan Duffy, and he cannot follow it. In fact, he is putting up the very case that was put up by themselves.

Mr. GAVAN DUFFY: Perhaps it is hardly worth while my replying to the furrage we have listened to from the Minister, but in case anyone else is misled I should like to make it perfectly clear that what I said some months ago was that the military had no law for internment, and if they required to intern people they should have got legislative sanction for it. But the issue now is this. If it be a fact, which I do not admit, that thousands of people have got to be interned—more people besides those now in—it is for the military and not the civil authority to deal with that. If internment be a necessity at the present time I submit it should be internment by the military and not by the civil authority. That does not in the least mean, I think, that the military were right in omitting to get the sanction of the Oireachtas in any steps they con-

sidered necessary in the past. I think they behaved very wrongly in that matter, and see now what is to be done in the future:—Now that we have comparative peace we are putting up the civil authority to do the work which is essentially of a military character.

Mr. O'HIGGINS: I think there is little to be gained by playing with words. The military had no law for internment in the past, and the Deputy knows, few better, that they required no law for internment in the past; and he knows, too, that there was sufficient calls upon the time of Parliament to make it a futile thing, and little short of a criminal thing, to take up the time of Parliament in asking for power that was inherent in the military by virtue of the situation that existed in the country. Now he asks why should the civil authority ask power for internment, knowing well that the military authorities have no power whatsoever to make an arrest save in time of war or armed rebellion.

Mr. GAVAN DUFFY: Unless the Dáil gives it.

Mr. O'HIGGINS: Save in time of war or armed rebellion. If within six months, when this Bill will be law, a situation arises in which the Courts hold that a state of war or armed rebellion does not exist, the military will have no inherent powers of arrest. We are attempting to pass from the military situation, and to pass from the use of the military to the more general use and functioning of the civil machine. Why should the civil authorities cease to intern? Why should there be civil internment at all, the Deputy asks. Well, the situation in the country is known to every Deputy. Deputy Gavan Duffy also knows it, and he knows that we have on hand twelve or thirteen thousand prisoners, and there is a clamour for their release. If we are denied the powers of internment, and very full powers of internment, we will be driven into a very much more conservative attitude in regard to releases than we would otherwise adopt. We cannot gamble with the public safety, and we are not entitled to do so; but in individual cases we can make experiments and we can watch results. But we can, given the powers of internment set out in this Bill, release people whom, if we had not these powers, we would deem it our duty to detain.

Of course, all that may seem very crude to a Liberal like Deputy Gavan Duffy. We have been met by the Deputy not with any helpful or constructive criticism of the Bill, but simply with amendments that can only be described as expressions of stupid malignity. I do not know what is our offence.

Mr. GAVAN DUFFY: I ask that that expression be withdrawn. It is most offensive and wholly unwarranted.

AN LEAS-CHEANN COMHAIRLE: I think these words should be withdrawn.

Mr. O'HIGGINS: Not very clever malignity.

Mr. GAVAN DUFFY: That is just as bad. I object to being charged by the Minister with malignity, because I do my duty in this Dáil as I understand it. I think it ought to be withdrawn.

Mr. O'HIGGINS: We have been charged, and recriminations have been used——

AN LEAS-CHEANN COMHAIRLE: I ask the Minister to withdraw these words. It does not tend to harmonious proceedings if Deputies on the one side or the other cast personal aspersions.

Mr. O'HIGGINS: Yes, I withdraw these words, pointing out that recriminations have been used against us for doing our duty in the Executive Council, as we saw it, and I never could understand what our offence was, unless it was that we managed to save the ship from foundering after the Deputy had slipped overboard with a lifebuoy.

Mr. JOHNSON: I wondered, when the Minister for Agriculture was speaking, whether I had been translated. I remember last week's debate, and I think of the sweet reasonableness of the Minister in his constructive moods. I will say this: I have no desire to follow him into a long discussion, for it might be a long discussion, if we were to try to examine the arguments that took place in earlier debates, as he did to justify the position that was taken by one Deputy or another, and compare it with the position taken by the Ministers at the time. If he desired to do that, we might continue this debate for a very long time. I would like to say that I much prefer the Minister for Agriculture dealing with agricultural problems than the Minister for Agriculture dealing with problems of rough and ready law.

Mr. HOGAN: Does the Deputy suggest that I have not been consistent at any time, and, if so, when?

Mr. JOHNSON: Consistent in abuse, and in advocacy of rough and ready methods of law.

Mr. HOGAN: Consistency is a virtue.

Mr. JOHNSON: No. Consistency in evil things is a vice and not a virtue.

Mr. HOGAN: I agree.

Mr. JOHNSON: The Minister for Home Affairs argued against the amendment by stating the case of the continued detention of internees. He showed there was danger in wholesale, indiscriminate releases.

Mr. O'HIGGINS: I think the Deputy misunderstood me. I said minus these powers, which we are asking for in the Bill, we would be compelled to adopt a much more conservative attitude with regard to releases than we could otherwise adopt.

Mr. JOHNSON: His argument was based on those at present in custody, and on a much more conservative attitude than was outlined or foreshadowed in the Bill with respect to the internees. I would remind the Dáil that we are dealing with the proposal to make it lawful for an Executive Minister to cause the arrest and the detention of a person in respect of whom such Minister shall have received a report from a responsible officer, or from the military authorities that the public safety is endangered by such person being allowed to remain at liberty. These are persons that are at liberty that we are dealing with.

Mr. O'HIGGINS: They may be within six months.

Mr. JOHNSON: We are not dealing with internees or with people under arrest.

Mr. O'HIGGINS: Surely we are dealing with people who may be at liberty within the six months during which the Bill runs.

Mr. JOHNSON: We are dealing with persons who may have been arrested once or twice in their lives. It may have been they were arrested two months ago, or it may be ten or fifteen years ago. They may be interned now, or they may have

[Mr. Johnson.]
 been in jail during some time of their life, or they may never have been in jail, but we are dealing with the arrest of persons who are at liberty. This section is not confined in any way to persons who have been adjudged guilty, or who have been suspected of being guilty, of an offence of any kind in the past. The proposition is that the Minister shall be entitled to arrest and detain in custody "any person in respect of whom the Minister shall have received a report from a responsible officer or from the military authorities that the public safety is endangered by such person being allowed to remain at liberty." The responsible officer has been defined in the Bill as "an officer of the military forces of Saorstát Éireann not below the rank of captain or an officer of the police forces established by or under the control of the Minister for Home Affairs not below the rank of superintendent." Now, an officer of the rank of captain may be responsible and quite capable of fulfilling his responsibilities in respect of his military duties, but we have not the right to expect that his experience as a military officer of the rank of captain will enable him to discriminate in the way that is necessary in respect of citizens in their public activities. We are asked to empower the Minister to arrest and intern any citizen who is reported by the responsible officer—that is, by a military captain—to be a danger to the public safety. That is serious enough, and I ask the Dáil to bear in mind that there is nothing in this clause respecting armed rebellion, a state of war, turmoil, insurrection, or any of these things that the mind has been accustomed to, but this is in addition to these things which are dealt with in the previous paragraph. Now we come to the question of the right of internment of any citizen if the Minister is told by a captain in the Army or a superintendent of police that the continued freedom of any citizen is a danger to the public safety. Then the Minister's orders, without any process of law, shall entitle that citizen to be arrested and interned. But bear in mind the kind of example the Minister for Home Affairs, in his first speech on this Bill, put forward to the Dáil as his justification for these powers being granted to him. Bear in mind that it deals with public safety, because public safety is the requirement in this section. The Minister gave as an

example which would justify him, he said, in interning any citizen, that the citizen might be engaged in a no-rent campaign, or a campaign to pay no debts. I could not help thinking of the speech by Deputy Gorey a couple of weeks ago, almost a few days ago, when he said that he was going to advise his people not to pay these rents. Is that, I ask, against the public safety? The Minister says "Yes."

Mr. O'HIGGINS: I think it is scarcely fair of the Deputy to misrepresent what I said. I think that to some extent it is a conscious misrepresentation. I pointed out that, on the one hand, you are asked to grant powers of internment for positive acts against the State, such as armed revolt, threatening, coercing, assault, or the attempt at armed revolt; destroying, damaging or removing property, or the attempt to destroy, damage or remove property. I pointed out that conceivably a campaign as dangerous to the State as any that might take place along these lines could arise, and I pointed to such negative action, if you can speak of negative action, as a campaign against meeting liabilities, a campaign against the payment of rates, taxes, shop debts or rents. I merely mentioned rents as one amongst seven or eight such liabilities. That example was simply thrown out casually, but I do not depart from it. I do say that if a serious situation of that kind were to arise it would be the duty of the Executive to take action against it, dealing with it as a situation which menaced the stability and the very existence of this young State.

Mr. JOHNSON: The Minister has proved my words. There was no conscious or unconscious misrepresentation, because he has repeated what he had said earlier, and has repeated what I was explaining to the Dáil, namely, that he would consider the agitation against the payment of rents, the payment of rates or annuities or any lawful debt as a justification for arresting and interning a person advocating these measures. Following the advice of Ministers so often given to the Dáil, and particularly to Deputies on these benches, and coming down to bedrock, I immediately referred in my mind to Deputy Gorey's advice, which every member of this Dáil has given at one time or another under different circumstances; and I ask the Dáil to bear in mind how near ordinary poli-

tical and economic and industrial agitations might be to the advice which Deputy Gorey has given—

Mr. GOREY: On a point of order—

Mr. JOHNSON: And the statement he made, which is within the regulations of the Dáil and on the records of the Dáil.

Mr. GOREY: I think, before the Deputy quotes me, he had better get the Official Report and quote me properly.

Mr. JOHNSON: If Deputy Gorey denies or withdraws anything he said I am quite prepared to accept it.

Mr. GOREY: I am not denying anything.

Mr. JOHNSON: What I am referring to is the statement Deputy Gorey made.

Mr. GOREY: Or twisted your way.

Mr. JOHNSON: The statement Deputy Gorey made is sufficient to illustrate my argument that there is a very thin line between the agitation which Deputy Gorey would support and which I would support him in, and the agitation of a kind which the Minister would consider to be detrimental to the public safety. The Minister considered any such political agitation as detrimental to the public safety, and it is a very easy thing for a Minister to think an agitation detrimental to the public safety. A police officer or a military captain advises that this man responsible is a nuisance, and ought to be interned, and the Minister is to be given power to arrest and intern that man or woman, who may be conducting a political agitation inconvenient to the Minister, to the police, to the military officers in the area. There is a very thin line indeed between the agitation which Deputy Gorey would advocate or that I would advocate or conduct, and what the Minister for the time being might consider to be detrimental to the public safety. A shipowner might take it into his head to stop the running of his ships, and to advocate that other shipowners would do likewise, and close down traffic in any part of the country. He might advocate that. A Minister, perhaps not the Minister, but a Minister who might be, within six months, on those Benches, might say that this action is detrimental to the public safety, and all that is required is that this owner should

be interned. A Labour leader, head of a Trade Union, might advocate a strike in a particular industry which might cause dislocation, has very often indeed been denounced as being detrimental to the public safety. All that is required, if we give the powers in this Bill, is that a police officer or a military captain shall say, "Such and such a person is a nuisance; have him arrested; he is a danger to the public safety," and we are giving power for his internment. The Minister may say, of course, that there is no intention of doing any such thing, but that is not what is written down in the bill. In this clause as it stands all these powers are to be given to the Minister. "The public safety" is a term capable of the widest interpretation. We have already by inference excluded from this clause the question of turmoil of a physical kind, armed rebellion, revolt, insurrection, destruction of property. All these things are excluded from this. What is meant by "the public safety"? What is the definition? The Minister has to decide what is the public safety. There are innumerable instances that might be given as to dangers to public safety. I am sure if one could take the files of the Dublin and Belfast newspapers any time within the last ten years one could see in them interpretations of what "public safety" required, and if there is to be any public life, if there is to be any political agitation, if there is to be anything in the nature of living political life in the country, the powers that be at the moment at any time will declare that some of the people conducting those agitations are acting detrimentally to the public interest, that they are a danger to the public safety. We are asked to concede for six months, the Minister will say, power to the Minister to intern any person who may be represented to him as being a danger to the public safety. Bear in mind we are outside the realm of military activity; we are outside the limit of turmoil of a physical kind. Is there, then, no chance, even within six months, of dealing with such person under any of the existing Acts? Does the existing law not provide you with all the safeguards necessary for this kind of person? I have been looking through the Restoration of Order in Ireland Regulations and the Defence of the Realm Act. Well, they are mother's milk compared with this.

Mr. GAVAN DUFFY: Hear, herr.

Mr. JOHNSON: They are the mildest of repressive measures that could be imagined after this. When Britain was expecting invasion and feared all kinds of sinister and disruptive activities within her own borders, all they deemed it to be reasonable to ask their own Parliament, when they could have got anything, was to order a person to be placed in a particular area, and, on disobedience, to intern him. But we are asked to give the Minister power to intern if it is thought by a military officer that a particular citizen may be a danger to the public safety if allowed to remain at liberty. In the Minister's view it would be eminently justifiable to arrest and detain any person as an enemy of the public safety who might be engaged in a campaign advising the people not to pay rents. I think that when the Minister interprets the power to be given him in this clause on the first discussion of the Bill as he has done, what is going to be thought of his interpretation of the powers if he happens to be up against difficulties when the Bill is an Act? The mind of the Minister is revealed in his defence of this provision. He desires power to arrest and intern inconvenient persons, and I say that the Dáil ought not to give such powers. The Minister for Defence dissented when I made the statement earlier that the very existence of Parliament was a proof of the necessity for defending people against the actions of an Executive. Executives seldom or never enter into their responsible duties with a determination to restrict liberties. It is when they come up against difficulties that they are impelled by the circumstances of the case to do so. They seek the line of least resistance; they are impelled to fall back, to see what powers they have to restrain, to coerce, to imprison, and it is the business of the Parliament to limit those powers as much as possible in the interests of the liberty of the citizen and the liberty and safety of the State. I submit that there are ample powers in the ordinary law, using the ordinary Courts, to protect the public safety against dangerous persons, and that the Dáil ought not, in justice to itself and for the public safety, give powers to a Minister to intern people merely upon the complaint of a policeman or a military officer.

Mr. O'CONNELL: Speaking earlier in the debate, the Minister for Home

Affairs said that they wanted this particular paragraph in order to intern people who would constitute a danger to the State by their actions. I put up a hypothetical case, and the Minister did not attempt to say that that was a case in which these powers might be used. Now I will put up another—one which, perhaps, is more definite. There are many people, and possibly people in the Dáil, who do not believe that the country in its present form of government has reached its limit on the road to freedom. Many people still aspire to see Ireland a Republic, and the Minister for Agriculture was careful to draw a distinction between what he called criminality and Republicanism. We have listened to and read on many occasions declarations by Ministers to the effect that if these people who had been engaged in a certain campaign during the past twelve months had confined their activities to constitutional agitation all would have been well. There are very many who do not see eye to eye with the Government who are of the same opinion—who are inclined to try to convince others who were embarking on a more extreme measure, of the wisdom of adopting a policy of constitutional Republicanism. I put it to the Minister that if that was admissible, what confidence or trust would such people have in advising or promoting such an agitation if they were faced with this power which is proposed to be given in this paragraph?

What constitutes a danger to the State? If a man goes out avowedly with the prepared purpose of changing the present State, or form of Government, will that be deemed by a military captain or superintendent of the police to be a danger to the State? I take it for granted that it would be. I put it to the Government, by claiming the powers in this paragraph which, as Deputy Johnson has already pointed out, they do not require, that they are themselves constituting a danger to the State, inasmuch as they are taking from people who are anxious to embark on a constitutional agitation to change the form of Government of the State that power and that right. It may be said that they are not taking it from them, but that is what will be and must be read into this paragraph. Similarly the doctrine or policy of passive resistance to law may be preached by somebody.

It has been preached in other countries, and there is no reason why it should not be preached here. That, too, I presume, would be taken as a danger to the State. Three specific things are mentioned in Part 1 of the Schedule which do constitute a danger to the State. The things that are asked for here must be something outside of these. What are they? The only attempt at defining what these dangers are was made in that hypothetical case put up by the Minister. We are entitled, before we give these extraordinary and very wide powers to the Government, to know exactly what are the dangers which the Government apprehends, and for which they ask these extremely wide powers. We have not been told that up to the present. No argument has been put up and no statement has been made as to the dangers which are feared. Reference was made to what took place, and what is taking place through the country, but I contend that the two paragraphs, (a) and (b), are sufficiently wide, as wide even as the Minister could expect them to be, to deal with the cases mentioned. No explanation has been given as to the kind of persons it is intended to bring in under paragraph (c). I think, if the Minister expects the support of the Dáil for that paragraph, it is his duty to tell us definitely to what class of people it is intended to apply.

Mr. O'HIGGINS: Judging from the trend of the Deputy's speech, he has a different idea of constitutional agitation from what I have.

Mr. O'CONNELL: Possibly.

Mr. O'HIGGINS: When I used the expression "constitutional agitation" I meant endeavouring to convince one's fellow-citizens that a particular course is desirable, and endeavouring to persuade them to give a mandate of that kind to their representatives in Parliament, or to return representatives with a mandate of that kind. Deputy Johnson, in taking an extravagant case, has a wide field to play about in. He is of a rather playful disposition. He should have got up when we were dealing with the Bill—when we were giving the Board of Works power for the compulsory acquisition of premises for the Civic Guard—to point out that we might covet Clery's as a depot, and that under the Bill there was nothing

to stop us from taking it. That is the kind of playful phantasy Deputy Johnson indulges in occasionally in his more dreamy moods. There is no use in putting extravagant cases, and speaking as if this Bill were something containing cut-and-dried powers given to the Executive, and that after that the Dáil would not see the Executive for 750 years to hear an account of an exercise of these powers. Deputies know that day after day Ministers answer questions with regard to their exercise and the exercise by officials responsible to them of powers that are vested in the Executive. Deputies know that under the provisions of this Bill Ministers will be equally subject to interrogation with regard to particular cases and subject to criticism with regard to matters raised on the adjournment arising out of this Bill. If we do any of those terrible things that Deputy Johnson pictured under this Bill, I have no doubt we will hear about it, and our successors will hear about it, from the representatives of the people who sit here.

Deputy O'Connell asked for a very definite statement as to the class of people it is proposed to deal with under this section. I tell him that one could not give such a definite statement here and now. One would naturally have to consider each particular case on its merits. Paragraph (a) provides that power is given to intern people suspected of being or having been engaged or concerned in the commission of any of the offences mentioned in Part 1. of the Schedule to the Act. Unlike Deputy (Gavan) Duffy and some others, I have not been a practising lawyer, and I cannot say offhand whether that particular Sub-section (a) would cover the advocacy in public or in private of acts of that kind. Yet it is quite conceivable that a person advocating acts of that kind, and not himself engaged or concerned in the commission of them—as a great many of the advocates take care not to be—would be a danger to the public safety. Deputies know well that this Bill is not asked for with a view to taking any action calculated to irritate or intensify the possibility of trouble in the country. Deputies know, on the contrary, that the fuller the powers that are asked and the fuller the powers that are given, the greater will be the possibility of taking alleviating action. I have said before, and I stress it now, that these

[Mr. O'Higgins.]

powers are asked for largely with a view to enabling us to take a more liberal attitude than we would take if the powers were denied.

I cannot meet Deputies on this amendment. I have listened to extravagant cases being put. Deputy O'Connell wants to know the names and addresses practically of all whom it is proposed to intern under that sub-section. I cannot give them to him. I do not know whether it will be necessary to intern anyone under that sub-section. I would be very sincerely pleased if it were not necessary. But I do say that, having regard to the practical situation in the country, having regard to all the conditions that have led up to it, having regard to speeches of leaders of the armed opposition to the Government—I will not say responsible leaders—that it is necessary to take very full powers over this short period of six months, so that the Executive may be equipped to deal with any situation that may arise, as it ought to be dealt with in a proper performance of stewardship. I think we are not likely to arrive at any compromise with regard to this sub-section.

Mr. GAVAN DUFFY: Before we pass from this sub-section I should like to draw attention to one matter which I think has not been specifically noticed—that is that there are three distinct types of police officer who may intern. Now, it is bad enough to have the C.I.D. Force doing work for which it was not trained, and for which it was not intended—I take it we are all agreed that a force of that kind is intended primarily to detect crime, and not to decide that the person who, they think, is guilty is to be put in prison—but surely it is very much worse, and surely everybody in the Dáil will realise that it is a serious thing, to involve the Civic Guard and the Dublin Metropolitan Police in political or semi-political work such as this would be in the case of suspects who are suspect for political reasons. Surely it cannot be the intention of the Minister that forces like those that have kept themselves clear of all that kind of thing, and forces upon whom the future security of the State very largely rest, should be brought into a matter of this kind and should be thrown into the vortex of political horrors in case

they begin again. Obviously it would be much better that they should be completely divorced and dissociated from any business of this kind. If it be necessary to arrest people on the suspicion of policemen we should at least leave out of the range of those on whom that very invidious duty is to fall the Civic Guard and the Dublin Metropolitan Police.

Mr. JOHNSON: I was going to put to the Minister quite seriously a suggestion quite consistent with the plan of the Bill—that (c) ought to point specifically to defined offences. The Minister has, in Part 2 of the Schedule, defined a long series of offences. If, in place of the very loose phrase “public safety,” there were some references to these defined offences, one could understand the case that is pleaded for by the Minister. Our objection to this paragraph is that, notwithstanding the present wishes and the intentions of Ministers, power is given to the Minister—whoever he may be—to do things which he ought not to have the power to do. It is no defence to say that this is only going to last for six months, that the intention is to be in a position to deal more liberally with the persons concerned than would otherwise be the case, to say “Give us these powers—give any persons who may be in the position of Ministers these powers—and trust in us that we will not use them illiberally or unfairly.” That is not a position that Ministers should take up in coming to the Dáil for authority of this kind. We have to bear in mind—and I take the phrase of the Minister himself when he speaks of the foundations of the new State—that the Bills that are passed now, in their phraseology and in their intent, may well become the foundations of future legislation and may be pointed to as precedents for legislation of a similarly oppressive kind in other circumstances. That is a very strong reason, I submit, for requiring a very much more closely defined paragraph than this under which Ministers are to have power to arrest and intern. Paragraph (a) refers specifically to offences mentioned in Part 1 of the Schedule. Paragraph (b) refers, as has been stated, to matters arising in a state of war or armed rebellion. (c) should have some relation to something else in the Bill relating to the public safety and that might well refer to Part 2 of the Schedule. That I could understand, without saying that I would agree

with it, or that it would meet the whole of the case; it would, at least, give us some clue as to what was in the mind of the Minister, at least some assurance that no future Minister, even within the period of six months, presuming it will not be one of the Bills continued, will be able to say this term "public safety" is wide enough to include the internment of political opponents.

CATHAL O'SHANNON: I would ask the Minister to consider the suggestions that have been made by Deputy Johnson, because the scope of the paragraph is far too wide, and in the hands of what are defined as responsible officers might not carry out even the intentions of the Minister. The Minister knows perfectly well that, in the first case, a responsible officer would be the interpreter of the power given in the paragraph. The Minister would be the second interpreter, perhaps.

The Minister says there is a further course: "You can take the matter to the Court for *habeas corpus*." The Judge then interprets it, but he will not interpret it on the intentions expressed by the Minister here. He will not consider at all what was the intention of the Dáil in putting in those particular words. He will put his own interpretation on the words, as they stand and come to a decision accordingly. Hypothetical cases were given here. I have two or three concrete cases that occurred within the last two months, some of them perhaps a month or two earlier, cases in which, had responsible officers been invested with the authority of this particular paragraph, the men could have been interned for a long time. I have the case of a particular Trade Union Secretary who was practically accused by a responsible officer, of higher rank, I think, than is mentioned now in the Bill, of being in effect a danger to the safety of the public in a certain area. It was only after long and very vigorous agitation and demands—after months of it, I think—that a promise was made that he would be brought to trial. He was not brought to trial because, I think, it was found that there was not anything like a case against him. He was released. But given this power, that man might certainly have been detained, though he was perfectly innocent. I have another case. Two other Trade

Union officials, one of whom, to my personal knowledge, could not have been reasonably suspected of things that were suggested against him—

An Ceann Comhairle at this stage resumed the Chair.

CATHAL O'SHANNON: He was arrested by a very responsible officer indeed, apart from the technical expression, and was not being released. Much the same thing happened as in the other case. The two of them happened to be released, not by their own particular will at all, but by the will of certain other people who happened to be in the jail. A *habeas corpus* motion was taken, but the men were released. We had several other such cases, including the case of a Deputy who was arrested down the country on the spur of the moment, because he was apparently inconvenient to certain people or inconvenient to military in the area. I do not know exactly what particular representations were made on the spot, but they were released. Had the officers there this very wide power it is quite likely they could have reported to the Minister or the Executive Minister that these people were dangerous to the public safety. The thing is too wide. The Minister has said there is a difference between his conception of constitutional agitation and other people's conception of constitutional agitation. That is exactly where the wideness of the paragraph is a danger because military officers and even police officers are not the best judges of what are legitimate political activities or industrial activities and political and industrial agitation. It is quite possible, under the paragraph as it stands, for a Minister to use his prejudice against a particular political or industrial section whose conception of their constitutionality may be ordinarily accepted, but he, for his own reasons, might not accept it, and might use this paragraph against them. He may describe the case as one of perverted idealism. He cannot always dispose of things by calling them "idealism run mad." There were very many people, including high officials of the State, who considered that Tolstoy was a public danger in Russia. It was a matter of the conception of what is or is not endangering the public safety.

The paragraph is bad I think, and I would ask the Minister seriously to con-

[Cathal O'Shannon.]

sider Deputy Johnson's suggestion, and see if he could not narrow the scope of it. If the Minister reconsiders the paragraph he could narrow it in such a way

that it would not be so wide and would not be so capable of being wrongfully used.

Amendment put.

The Dáil divided: Tá, 11; Níl, 45.

Tomás de Nógla.
Riobárd Ó Deaghaidh.
Tomás Mac Eoin.
Seoirse (Ghabhán) Dhubhthaigh.
Tomás Ó Conaill.
Aodh Ó Cúlacháin.

Séamus Éabhróid.
Liam Ó Daimhín.
Cathal Ó Seannain.
Domhnall Ó Muirgheasa.
Domhnall Ó Ceallacháin.

Liam T. Mac Cosgair.
Donchadh Ó Guaire.
Gearóid Ó Súilleabháin.
Seán Ó Maolruaidh.
Seán Ó Duinnín.
Micheál Ó hAonghusa.
Domhnall Ó Mocháin.
Peadar Mac a' Bháird.
Donchumhain Mac Gearailt.
Micheál de Duam.
Seán Mac Garaidh.
Risteárd Ó Maolchatha.
Pilib Mac Cosgair.
Domhnall Mac Cárthaigh.
Maolmhuire Mac Eochadha.
Earnán Altún.
Sir Séamus Craig.
Gearóid Mac Giobúin.
Liam Thrift.
Eoin Mac Neill.
Liam Mac Aonghusa.
Pádraig Ó hOgáin.
Pádraic Ó Máille.

Seosamh Ó Faoileacháin.
Seoirse Mac Níocáil.
Piaras Béalai.
Fionán Ó Loingsigh.
Séamus Ó Cruidhlaoich.
Cristóir Ó Broin.
Guoinhghín Ó hUigín.
Próinsias Búllín.
Séamus Ó Dálaí.
Aindriú Ó Láimhín.
Liam Ó hAodha.
Próinsias Mac Aonghusa.
Famón Ó Dúgáin.
Peadar Ó hAodha.
Séamus Ó Murchadha.
Seosamh Mac Giolla Bhrighde.
Liam Mac Sioghaid.
Tomás Ó Domhnaill.
Earnán de Blághd.
Uinseann de Faoite.
Domhnall Ó Broin.
Séamus de Barra.

Amendment declared lost.

Amendment: "In paragraph (c), line 3, page 3, after the word 'that,' to insert the words 'for reasons stated in the report,' " (Liam Ó Daimhín; Séamus Éabhróid), agreed to.

Mr. FITZGIBBON: There are two matters that seem to me require to be altered, although I have not put in any amendment. I think the words "the responsible officer" ought to be "a responsible officer." In sub-section (a) of the same Section he is referred to as "a responsible officer." I think it is obviously intended that any responsible officer should be the proper person. Secondly, I think there ought to be some definition of military authorities. A responsible officer is defined but military authorities are not, so far as I know, defined. I think some definition ought to be introduced. A responsible officer is defined as anybody not below the rank of Captain. The term "military authorities" might be capable of being interpreted as being somebody below the rank of Captain, and that, I am sure, was not

the intention of the promoters of the Bill.

Mr. O'HIGGINS: We accept the first suggestion. In respect of the other matter I will consider what can be done.

Mr. JOHNSON: I do not think that should be accepted. "A responsible officer" points to an individual.

Mr. FITZGIBBON: That was my very point. There is no individual referred to in the Clause. I thought it was, obviously, a printer's error, and I think it must have been.

Mr. JOHNSON: That is with respect to a particular class of offence, but this is in respect of another kind of offence, and it obviously refers to "a person" who is more responsible than an ordinary, responsible officer. There is a distinct intention. This is a responsible officer who, presumably, is in a particular area, and I take it that the wording must remain now until it is amended on Report.

Mr. O'HIGGINS: The intention in

(c) was precisely the intention in (a) "Responsible Officer" was the phrase used throughout the Bill, with the significance defined in Section 16.

AN CEANN COMHAIRLE: Deputy Johnson objects to the amendment being made now?

Mr. JOHNSON: Yes.

Mr. FITZGIBBON: I did not put it down as an amendment. I thought it was a clerical error, that is the reason I drew attention to it. It can come on at a later stage.

Mr. JOHNSON: On this Section, I would say that the whole Section is objectionable. It is proposed to make it lawful for a member of the Executive Council who, I presume, is intended to be an Executive Minister, to cause the arrest of and detain in custody certain persons without trial. Now there is already power to arrest and detain citizens for offences, some of which are indicated in the Sub-paragraphs. I submit that it is not a wise procedure for us to hand over to the Executive Minister by law any such powers unless at the same time we withdraw these powers from the Military Authority. It is not good policy to have two bodies, two sections or elements in the country who

may be acting in harmony, or who may not, each with power to arrest and detain in custody citizens without either of them having the responsibility of bringing those prisoners to trial.

The Minister has defended it, and put this Bill forward on the ground that it is, or is intended to be, a gradual resumption of authority by the Civil Force, and a movement towards the reassertion of lawful methods. As far as the aspiration goes, it is commendable and generally satisfactory. But I submit that there should be, concurrently with any transfer of powers, a diminution of power from the one authority when transferring it to the other. By the passing of this Section we simply add to the forces who are authorised to arrest and detain citizens without trial. The Executive Minister is any member of the Executive Council. It may be any Minister, and he shall have power to arrest and detain citizens on the representation of certain Military Authorities. I think that is undesirable. I think it is a pity we should be asked to hand these powers over at the same time leaving similar or greater powers still in the hands of the military, and I propose to vote against the motion.

Question put: "That Section 1, as amended, stand part of the Bill."

The Dáil divided:—Tá, 42; Níl, 12.

Tá.

Liam T. MacCosgair.
Gearóid Ó Suilleabháin.
Seán Ó Maolruaidh.
Micheál Ó hAonghusa.
Domhnall Ó Mocháin.
Peadar Mac a' B áird.
Deasmhughain Mac Gearailt.
Micheál de Duram.
Seán Mac Garaidh.
Ristoárd Ó Maolchatha.
Pilib Mac Cosgair.
Domhnall Mac Cárthaigh.
Maolmhuire MacEochadha.
Earnán Altún.
Sir Séamus Craig.
Gearóid Mac Giobúin.
Liam Thrift.
Eoin Mac Neill.
Liam Mac Aonghusa.
Pádraig Ó hÓgain.
Pádraic Ó Máille.

Seosamh Ó Faoileacháin.
Seoirse Mac Niocaill.
Piaras Béaslá.
Fionán Ó Loingsigh.
Séamus Ó Cruadhlá oíh.
Cristóir Ó Broin.
Coinhghín Ó hUigín.
Próinsias Bulfin.
Séamus Ó Dóláin.
Aindriú Ó Láimhín.
Liam Ó hAodha.
Próinsias Mac Aonghusa.
Eamon Ó Dúgáin.
Peadar Ó hAodha.
Séamus Ó Murchadha.
Seosamh Mac Giolla Bhrihde.
Liam Mac Sioghairl.
Tomás Ó Domhnaill.
Earnán de Blaghd.
Uinseann de Faoite.
Séamus de Burca.

Níl.

Tomás de Nóglá.
Riobárd Ó Deaghaidh.
Tomás Mac Eoin.
Seoirse Ghabháin Uí Dhubthaigh.
Liam Ó Bríain.
Tomás Ó Conaill.

Aodh Ó Cúlacháin.
Séamus Eabhróid.
Liam Ó Daimhín.
Cathal Ó Seanáin.
Domhnall Ó Muirgheasa.
Domhnall Ó Ceallacháin.

AN CEANN COMHAIRLE: The motion is carried by forty-two votes as against twelve. I cannot allow Deputy Gorey's vote because he was not in his place in the Dáil when he answered his name, and I am going to insist upon that part of the Standing Orders being observed.

ATTACK ON CIVIC GUARDS.

Mr. O'HIGGINS: I beg to move to report progress. In doing so I would like to read to the Dáil a message which reached me in the course of the afternoon. The message reads: "Civic Guards on a cycling patrol patrolling between Killanne and Killealy, County Wexford, met armed men who called upon them to give up their bicycles. The Guards refused and the armed men fired. The Sergeant is believed to be mortally wounded, and at least one other Guard is wounded."

THE DAIL RESUMES.

Progress reported. The Committee ordered to sit again to-morrow.

HOUSING OF OIREACHTAS.

The PRESIDENT: I beg to move:—

That the Dáil appoint the following: An Ceann Comhairle, the Minister for Local Government (Mr. E. Blythe), Deputies Burke, Hughes, McGarry, Murphy, Gorey, Johnson, Davin and William Magennis (five to form a quorum) to constitute, with such Senators as may be appointed by the Seanad, a Committee to consider how suitable accommodation for the Oireachtas may best be provided and to examine such plans as may be submitted to them, and that the Seanad be requested to appoint to such Committee such members of the Seanad as the Seanad may think fit, and that it be an instruction to the Committee to report upon the matter submitted to them at their earliest convenience, but not later than the 27th July.

Motion agreed to.

The Dáil adjourned at 7.45 p.m. to 3 p.m. to-morrow (Wednesday).

DAIL EIREANN.

DE CEADAÓIN, 11ADH IUIL, 1923.

(Wednesday, 11th July, 1923.)

Cromadh ar obair an lae ar a 3.10 p.m. Bhí an Ceann Comhairle, Micheál Ó hAodha, 'sa Chathaoir.

GEISTEANNA QUESTIONS.

[ORAL ANSWERS.]

COMMITTEE ON FOOD PRICES.

AILFRID O BROIN asked the President if he will say whether the Committee on Food Prices is still taking evidence, if so, will he state when its first report may be expected.

The PRESIDENT: The Commission on Prices is at present engaged on drawing up its report, having heard all the evidence tendered to it.

FISHERY REPORT.

SEOSAMH MAC GIOLLA BHRI-GHDE asked the Minister for Fisheries when the Fishery Report for 1921 will be on sale.

Mr. E. J. DUGGAN (replying for Minister for Fisheries): The Report on the Sea and Inland Fisheries of Ireland for the year 1921 is now printed, and will, it is hoped, be issued shortly by the Department of Agriculture and Technical Instruction.

ILLEGAL TRAWLING.

SEOSAMH MAC GIOLLA BHRI-GHDE asked the Minister for Fisheries whether he is aware that a fleet of 35 French fishing boats are fishing off the Coast of Mayo, within the three mile limit, and if he will take any steps to put an end to this method of poaching.

Mr. DUGGAN: The Ministry has received complaints of fishing by French lobster and crayfish vessels within the three mile limit off the South and West Coasts of Ireland. The French Consul, to whom these complaints were reported, has taken action with his Government

to endeavour to prevent further infringements.

The Ministry of Defence has issued instructions to the Commanders in charge of Coastal Patrol vessels to take the necessary action where foreign vessels were discovered infringing upon the territorial limits.

Mr. McBRIDE: What in the name of goodness has the French Consul to do with it?

AN CEANN COMHAIRLE: I do not think that the Minister for Fisheries can be asked what the French Consul has to do with it.

Mr. McBRIDE: Is he not replying for the Minister for Fisheries?

Mr. DUGGAN: The Minister for Defence has issued instructions to the Commanders in charge of Coastal Patrol vessels to take necessary action.

Mr. McBRIDE: Would not a motor boat, costing £300, and manned by three men, keep the whole coast clear from Slyne Head to Killybegs, if the men in it were of any use?

APPLICATIONS FOR PAYMENT.

TOMAS O CONAILL asked the Minister for Defence whether he is aware that repeated applications have been made for payment of the following accounts, and if he can now say when payment will be made—viz.:—

(a) Mr. M. J. Lally, Attymon, Athenry (commandeered car and hiring charges).

(b) Mr. Condon, Athenry (motor necessities).

(c) Mr. T. Coen, Athenry (motor necessities).

MINISTER for HOME AFFAIRS (Mr. K. O'Higgins) replying for Minister for Defence: Applications for payment have been received from the persons mentioned. Consideration of their accounts is being expedited as much as possible.

BALLYHAUNIS ARREST.

TOMAS O CONAILL asked the Minister for Defence whether he is aware that Frank Waldron, of Ardeary, Ballyhaunis, who was arrested on August the 7th, 1922, and is now detained at Tintown (No. 2 Camp, No. 8615, Hut No. 9), has

[Tomas O Conaill.]

signed the usual form of undertaking and has obtained the necessary sureties, and can he say if, in the circumstances, this prisoner will be released.

Mr. O'HIGGINS: I am not aware that Frank Waldron has signed the usual form of undertaking, or has ever offered to do so.

Mr. O'CONNELL: It is asserted that he signed it last October, and that he found the sureties in March last.

Mr. O'HIGGINS: The Minister for Defence states that he is not aware of that.

Mr. O'CONNELL: I have sent the particulars to the Minister.

DETENTION OF HEADFORD (CO. GALWAY) MAN.

TOMAS O CONAILL asked the Minister for Defence whether John Burke, Clydagh, Headford, Co. Galway, now detained in Galway Prison, has signed the usual undertaking, and got two solvent sureties to give the necessary guarantees, and will he say why, in the circumstances, Burke has not been released.

Mr. O'HIGGINS: Burke was released on the 6th inst.

NATIONAL SCHOOL TEACHER'S ARREST.

TOMAS O CONAILL asked the Minister for Defence whether Hugh Flynn, National Teacher, of Loughcross National School, Carrick-on-Shannon, has been arrested by National troops; can he state the grounds of his arrest, and where he is now detained; whether any charges have been, or will be, formulated against him, and if not, is it the intention to release him.

Mr. O'HIGGINS: The enquiries which are being made in this case have not yet been completed.

CEANN COMHAIRLE'S RULING.

AN CEANN COMHAIRLE: Before we enter upon the business of the day, I wish to draw attention to a matter which has come under my notice. Yesterday evening in the course of a debate in Committee on an amendment to delete paragraph (c) of Section 1 of the Public Safety (Emergency Powers) Bill, 1923,

Deputy Gavan Duffy is reported to have used these words: "In an earlier stage of the debate the Ceann Comhairle ruled that we could not have an amendment making mockery of the Executive. That I quite understood, but happily we are allowed to criticise the Executive in debate." I was not in the Chair when that statement was made. If Deputy Gavan Duffy has been correctly reported, I take a grave view of such a statement. The rulings which I gave yesterday on certain proposed amendments of Deputy Gavan Duffy had been carefully considered and had been committed to writing. I am, therefore, quite sure of the words which were used. In ruling out one of Deputy Gavan Duffy's amendments I stated that it seemed to me to be offered in a spirit of derision, and that it did not aim at amending the Bill. Deputy Gavan Duffy admitted that. I made no mention of the Executive, nor had I given any consideration to the feelings or opinions of the Executive Council as such in making the ruling. It is my duty while I continue here to maintain the dignity and privilege of the whole Dáil, and see that no Deputy is allowed to lower that dignity or in any way to interfere with its privileges. When an amendment is placed upon the paper as a joke, or in a spirit of derision, that is an insult to the whole Dáil. It tends to lower our dignity and to take away from the seriousness of our proceedings. The Order Paper for the Committee Stage of the Public Safety Bill contains a considerable number of amendments in the names of various Deputies which are offered in a spirit of seriousness with a view to effecting improvements in the Bill in certain directions.

In my judgment it is improper and unfair that discussions on such amendments should be delayed by a consideration of amendments set down without serious intent. The statement which Deputy Gavan Duffy is reported to have made about my ruling is a wholly inaccurate account of the words used by me, and it seems to me to contain an implication that in ruling as I did, I was inspired by a desire to protect the Executive Council. I can see no other reason for the introduction of the word "Executive" which I did not use, nor do I see any other reason for the subsequent sentence. Now, on that point I feel that there is no need for me to refute

such an implication. There is every need on the other hand for me to prevent my rulings from being misrepresented, and to prevent implications being made concerning them. The only course open to me is to ask Deputy Gavan Duffy to withdraw his statement and apologise for it.

Mr. GAVAN DUFFY: I must say that I am somewhat surprised that I should have had no notice from you on this matter—

AN CEANN COMHAIRLE: Deputy Gavan Duffy will, perhaps, tell us first, if this statement is correct?

Mr. GAVAN DUFFY: I think so, but I have not got the official record.

AN CEANN COMHAIRLE: I will read it. "In an earlier stage of the debate the Ceann Comhairle ruled that we could not have an amendment making mockery of the Executive. That I quite understood, but happily we are allowed to criticise the Executive in debate."

Mr. GAVAN DUFFY: I would have been in a better position to deal with this matter had I known it was coming on. I certainly had no intention to misinterpret your ruling or to question it. Very often in the course of debate one may use an expression such as the expression "Executive" which is inaccurate. I am not prepared to say what words I did use. But if these are the words reported, I have no doubt they are correct. I had not the slightest intention of reflecting upon the justice of your ruling. But since the matter has been raised, I think it is right that I should say that I considered that I was very peremptorily dealt with in the matter. The decision given by you I accepted at once, as I have always accepted every decision from the Chair. I would have accepted it even did I not agree with it. I was one of the first to recognise, and I have always held that it is essential to the conduct of the Dáil, that we should respect the Chair. I think the Dáil will do me the justice of recognising that I have invariably done so. Now, this particular matter arose yesterday for the first time. That is why I ventured to think that the Ceann Comhairle would have allowed me to say what I had to say in the matter before definitely ruling me out. It was the first time a ruling

was made to the effect that we should not put in amendments of a derisive character. Therefore, it was a new matter.

When he made the ruling I fully understood him, and I fully appreciated the fact that it would not be to the best interests of the Oireachtas that amendments of a derisive character would be introduced. I had no intention in what I said, subsequently, of criticising the decision with which I may say I perfectly agree. If I gave any such impression, I regret I gave it. It was certainly not in my mind. The only reason I alluded to the matter, subsequently, was not by way of amendment, but by way of explaining the interpretation I put on the Section in question. I had thought the words I had written down were in order; I ask the Ceann Comhairle, so far as the justice of his ruling on this new point that came up for the first time went, to take it that I do not dispute it. He mentioned it to me earlier in private, and I recognised it at once, and I accepted it as a just and proper decision. I regret he should have taken any other impression from any words I used, which were not intended to have any such effect.

AN CEANN COMHAIRLE: I accept Deputy Duffy's assurance that he used words which he did not intend to bear the meaning which I must say it seems quite clear to me that on the face of them they do bear.

Mr. GAVAN DUFFY: In reference to one matter you mentioned I may say I had not in my mind any question of a distinction between the Executive and the Dáil at all. That, I gather, is the innuendo. It was not my intention in the least.

AN CEANN COMHAIRLE: I gave Deputy Gavan Duffy notice of my rulings yesterday, but when an amendment was ruled out for a specific reason, and when it was admitted that that ruling was correct, I saw no reason yesterday for further discussion on the point, and I see no reason yet for further discussion on such a point. The whole question of rulings, I am sure it will be realised, is of very great importance in this particular Dáil, because we are in the position of making precedents, and when the Chair is called upon to rule in any mat-

[An Ceann Comhairle.]

ter, that matter must have serious consideration, and the Chair must remember that the ruling will go down upon the records, and it probably will be regarded as a precedent, and will be quoted. It is for that reason that I have endeavoured to rule on these matters so that seriousness in debate would be preserved and so that our business would be transacted in a manner which is befitting to a body like this.

CIVIC GUARD (ACQUISITION OF PREMISES) BILL, 1923.

(FROM THE SEANAD.)

Amendment from the Seanad:—

"At the end of Sub-section 2, of Section 3, the following words have been added:—'and where any person being a caretaker was so put out of occupation as aforesaid it shall be lawful for the Minister for Home Affairs, if in his opinion there are any special circumstances warranting his so doing, to authorise the payment to such person of such sum by way of compensation for disturbance as the Minister aforesaid shall, with the consent of the Minister for Finance, think proper.'"

Mr. O'HIGGINS: The amendment suggested by the Seanad is, I think, a proper one. The question was raised there as to the position of a caretaker disturbed by the premises being acquired under this Bill by the Civic Guard, and while I was unwilling to recognise a third party to the proceedings, and while I had held there are really only two parties—the State and the owner of the house which the State finds it necessary to commandeer for the time being—still undoubtedly cases of pretty considerable hardship might arise, and the compromise was arrived at of not giving to the caretaker a legal right as against the State, but reserving to the Minister the discretionary power of dealing with particular cases that might arise. I think the amendment is a proper one, and ought to be accepted by the Dáil. I move: "That the Dáil do agree with the Seanad in this amendment."

Mr. F. LYNCH: I beg to second.

Question put and agreed to.

AN CEANN COMHAIRLE: A message will be sent accordingly.

DAIL IN COMMITTEE.

PUBLIC SAFETY (EMERGENCY POWERS) BILL, 1923.

THIRD STAGE RESUMED.

AN CEANN COMHAIRLE: Progress was reported yesterday, when Section 1 was disposed of.

SECTION 2.

(1) It shall be lawful for a responsible officer to arrest and to detain in custody for any period not exceeding one week any person found committing or attempting to commit or whom such officer suspects of having committed any of the offences mentioned in Part II. of the Schedule to this Act.

(2) It shall be lawful for an Executive Minister to order the detention in custody in any place in Saorstát Éireann of any person arrested under this section in respect of whom such Minister is of opinion that the public safety would be endangered by such person being set at liberty.

(3) Whenever any person is arrested under this section such person shall, not later than one week after his arrest unless an order for his detention is made by an Executive Minister under this section, either be released, or be be charged with one or more of the offences mentioned in the Schedule to this Act, or with any other offence or offences and dealt with according to law, and shall for that purpose, if in military custody, be delivered into civil custody.

Mr. JOHNSON: On behalf of Deputy Corish I beg to move:

In Sub-section (1), lines 7 and 8, to delete the words "or whom such officer suspects of having committed."

The responsible officer may be a Captain in the Army. Schedule No. 2 contains a long list of offences, some very serious and some less serious. No. 12 reads: "Aiding, abetting, assisting in, or encouraging the commission of any of the offences mentioned in this Schedule, or helping in the concealment or escape of any person guilty of any such offence." The officer is to be empowered under this paragraph to arrest and detain for one week any person whom he suspects of having committed the offences mentioned in the Schedule. I submit that that is too great an authority to give to an officer in the Army.

He may suspect that a person has helped to conceal another person who

may be guilty of one of a very long list of offences that are set out. Having arrested and detained for one week, the Minister will, under another Section, be empowered to keep that person for an indefinite period without any assurance whatever that such prisoners will be brought to trial. It would be very easy, indeed, for an officer, not below the rank of Captain, to say that he suspects any citizen of having concealed, or attempted to secure the escape, or aided or abetted or assisted in the commission of any of these offences scheduled, and the mere suspicion by an officer that a person was party to, or conversant with, the fact that another person may have committed an offence, or by virtue of knowledge did not inform upon another person whom he may suspect of having committed an offence, is sufficient to warrant detention. This Section would give the officer power to detain for a week, and would give the Executive Minister power to detain indefinitely, merely upon suspicion of such a flimsy kind as that mentioned—not the suspicion of a specific offence necessarily, but the suspicion of having been party to the concealment of an offence by another person. I think that it is not justified by the circumstances or by the facts. It is giving too much power into the hands of a military officer. The military officer may under that power, frankly and openly given to him, simply detain a person, and when the question is raised why, all he has to say is he suspects he knew something of something that happened a week or six weeks, or two months ago, and no grounds further are required. A mere suspicion of the military captain, or the statement that he suspects, which might cover any amount of personal spleen, and anybody, under this Bill, can be brought to book. I do not know whether that is the intention of the Minister or whether he would intend or desire that such a power should be given, or whether it is due to inadvertence that this got into the sub-section. The effect of its deletion would be to make it lawful for a responsible officer to arrest and detain for a period, not exceeding one week, any person found committing or attempting to commit any of these offences, and it would deprive that officer of the power to detain any person whom he merely suspected of having committed an offence. I hope I am right in suggesting

Minister to give these very extended powers to an army captain, and I ask him, therefore, to accept my amendment.

MINISTER for HOME AFFAIRS

(Mr. K. O'Higgins): It was not by inadvertence that this sub-section found its place in the Bill, or that the word "suspect" found a place in the sub-section. I could talk for hours on the soundness, as a general rule and in normal conditions, of assuming the innocence of persons until their guilt is proved. It is a quite sound principle; most civilised countries have adopted it as a basis of their system of justice, and yet there are few States that have not, from time to time, claimed the right to depart from it in respect of deterrent detention as distinct from punitive imprisonment. States always have claimed and I think always will in times of crisis and emergency the right to depart from that principle and to detain citizens during a time of crisis without cause proved in Court, and without trial. Now, if any State was ever justified in departing from it I think this State is justified in departing from it under existing conditions, and in such conditions as are likely to exist for some months. It is menaced by a conspiracy, and a conspiracy that has had recourse to acts such as disgraced the pages of very few countries in history—a conspiracy that was absolutely ruthless and conscienceless in the methods it adopted to gain its negative destructive end. The foundations of this State are not set. Arms and explosives are secreted throughout the country, and the hysteria of the last year has not passed away. We are asking power, in these conditions, to arrest and detain citizens on evidence short of legal proof. What is the exact force of the word "suspicion" in this context in sub-section (2)? Everything short of absolute knowledge, everything short of proof, is suspicion. Now, persons found committing, or attempting to commit, offences mentioned in Part II. of the Schedule to this Act, will, I hope, be placed on trial. There is no reason why they should not be; but persons reasonably suspected of committing or attempting to commit acts of this kind will, I hope, be detained. We ask power to detain them. We think that is a matter of public safety affecting the citizens and affecting the future of this

[Mr. K. O'Higgins.]

Nation and State, and that it is necessary that the Executive should have power to detain persons reasonably suspected of having committed the offences set out in the Schedule to this Act. If it is stated that this Bill can be made a medium of tyranny I say it can; and I say it would be impossible to conceive and frame a Bill which, while amply safeguarding the interests of the State and its citizens, would yet be incapable of being used as a medium of tyranny. But, remember, you are giving these powers to an Executive responsible to the people's representatives here from day to day. It can only endure while it retains the confidence of the majority of the people's representatives. It is to such a body that you are entrusting these powers which are certainly far-reaching and certainly drastic, and which are only justified by the situation that exists in the country, a situation which we did not bring about, and a situation which we have done our best to deal with as it should be dealt with.

The alternative to the sub-section, as it reads, is that in fact there could be no deterrent detention in respect of any of the offences set out in Part 2 of the Schedule; that there could only be arrests and trials and imprisonment, and that for everything short of legal proof the suspect should go free. We cannot admit that. Take this crime which occurred yesterday in Wexford. I noticed that one paper refers to it as "a daring crime." I do not agree with that description. Two unarmed men were shot because they refused to deliver up certain property that they were asked to give up. Let us assume that the perpetrators of that cowardly crime get rid of their guns shortly after the outrage; that they are met on the road in or about the time of the occurrence of the outrage, and that they are of a type that would render them reasonably suspect of having committed the outrage. Now, if this sub-section were altered, as it is sought to be altered, men found in these circumstances must go free, because there is no legal proof, and everything, as I say, short of knowledge, everything short of legal proof, is suspicion. You must, if you give these powers, give them with a certain confidence that they will be used with discretion, that they will be used in the interests of the citizens and of the State,

and that the body to which you entrust them, and on which you confer them, is not out simply to take the last ounce out of every bit of authority and every bit of power that this Dáil confers upon it in order to persecute and oppress any section of the citizens. Deputies here know well that there are people who have been interned for a couple of months, and whom it is hoped shortly to be able to release, but who if put on trial, as we could have put them on trial, producing proof and producing evidence, would get many years' sentence of imprisonment. We have tried to preserve that spirit and that outlook in handling the whole situation, but when we introduce a Bill, which we consider is a necessary measure to deal with the middle period, a transition period from war or armed rebellion to normality, certain Deputies get up and suggest that it is necessary to be most niggardly and jealous, as if you were dealing with a body of men who might be expected, as a natural thing, to be oppressive, to be tyrannical and to be unjust. That is not the position, and if it is the position, and if the Dáil believes it is the position, then they ought certainly to change the Executive and select men with a different outlook. If you give these powers we are responsible here from day to day. If they are abused, specific cases can be raised, questions can be asked and matters may be raised on the adjournment, but do not say, in the critical condition of things here, and with all the possibilities there are of trouble in the future that a citizen may not be arrested and detained on anything short of legal proof, and that is what the amendment seeks to say.

CATHAL O'SHANNON: The Minister is really pushing the "no confidence" thing too far. He says that, in this and all other cases, it is quite open for the Dáil to raise questions, and to debate individual or other cases. That is quite true. The fact that certain Deputies want to make certain changes in a section or a Sub-section of a Bill, does not necessarily mean that the only alternative to change that section is to sack the Executive Council. That is not the position at all or anything like the position. The Minister mentions the case that happened in Wexford yesterday. It was not anything like a "daring" thing at all. It was a most cowardly thing, and no Deputy in the Dáil will express any other

opinion about it, because it was a most dastardly and cowardly thing. But at the same time, it is quite an apt illustration of the points in favour of this amendment, because, let us take for the sake of argument, that three or four persons were concerned in this attack on the unarmed Civic Guards. The Minister pictures these persons as getting rid of their guns, of walking along the road and of coming across military or detective officers and getting arrested on suspicion because they looked like chaps who had done this dirty job. That might happen, not only in the case of three or four persons, but it might happen in the case of a dozen persons, so that you can have, under the Section as it stands, a dozen or two dozen people in that district arrested on suspicion of doing a job which, so far as our information at the moment goes, was done by three or four. That is where the introduction of the element of mere suspicion is so hurtful, and why it ought to be taken out of this Section altogether. Now, suspicion, I suggest, is of two kinds; it is either original suspicion arising more or less spontaneously in the minds of certain officers, or else suspicion derived or acquired from information which perhaps would not be good enough to convict, but would perhaps, be strong enough to make an officer suspect that a certain person or certain people had done a certain thing. In both cases there is great room for error. I know a case in point. It happened to a certain Army officer who lives in the City of Dublin, whose house has been raided by officers of the State, because he was suspected of having arms, or at least his house was suspected of containing arms. The suspicion, of course, was a quite reasonable suspicion, and probably was derived from information that was a quite reasonable suspicion.

That has happened in more than one case. Descriptions have been given which were not at all accurate. It is only a trained observer who can give an accurate description of a person or a number of persons whom he has seen only perhaps for a few minutes and has never seen in his life before. On information given by people who, naturally, when certain events take place have been labouring under great excitement, certain other people who bear some kind of resemblance in appearance to the people described by a witness may be

suspected of committing a deed which they did not do at all. It is stretching the whole thing too far to allow the element of suspicion to count for so very much. I do not want to go outside the Standing Orders, A Chinn Comhairle, but I think I will not be going outside the Standing Orders by drawing the attention of the Minister and of the Dáil to the bearing that other parts of the Section have on the amendment we are discussing and to the Sub-section which it is sought to amend. The Sub-section provides that it shall be lawful to detain in custody and so forth a person found committing or suspected of having committed certain offences. Sub-section (2) provides that even such suspect if not charged with any offence under the Section may still be detained and kept in custody by the Minister not for the offence of which it was in the first instance suspected he had been guilty of, but of the more general one of being a danger to the public safety. That, I submit, shows the grave danger of allowing detention on suspicion. I mentioned on yesterday evening a certain case. I want to go into it more particularly this evening, because it illustrates a danger of this kind. A certain man, arrested presumably on information supplied by the Intelligence Department, was detained for some time in one of the prisons. Eventually, after a considerable amount of trouble, he was released. The truth of the thing, from beginning to end, was that the man instead of being an enemy of the State was a most devoted supporter of the State, but he was presumably suspected of having been concerned in the commission or assisting in the commission of certain offences against the State. That man when released sought, but sought in vain, from the Ministry an acknowledgment that the Ministry had made a mistake. The Ministry, of course, made no such acknowledgment, and will not make such acknowledgment. Ministers, as a rule, do not admit in these cases that they can make mistakes. All they say is: "You have been released and you ought to be content; we have nothing more to say in the matter." But that man, instead of being released, could, under this Section of the Bill, have been detained, although the suspicion on which he was originally arrested was undoubtedly ill-

[Cathal O'Shannon.]
founded. Under other Sections of this Bill he could have been still detained and he could have been prevented and his friends could have been prevented from raising an awkward question by asking an acknowledgment of the mistake that had been made on the part of the Executive Council. That, I submit, shows the danger of allowing the element of suspicion to count for so very much.

Mr. GAVAN DUFFY: I do not wish on this Section to go into arguments that would be more properly addressed to the general question of internment on suspicion under Section 3. But a specific point was made by the Minister to the effect that specific cases could be raised in the Dáil. This was by way of extenuating the admitted objection to arrest on suspicion. It would undoubtedly be a very great matter if there were any adequate power of redress by raising in the Dáil cases where the allegation could be made that so-and-so was improperly suspected and improperly arrested, but I conceive that such power as there is is very largely illusory for this reason, that the answer the Minister will make and will be entitled to make under this Bill is "Mr. So-and-so is arrested in the interests of the Public Safety." Full stop. He will decline, and he will be entitled to decline, any further information as to the justifications of the arrest of the person in question. A case in point arose the other day. A man in Rathmines was arrested on suspicion and interned. His solicitors took up the case with the military authorities and after several weeks and after what appeared to be very careful inquiry the authorities came to the conclusion that this man ought to be released, and they released him. A week or two after the release the same man was re-arrested. Incidentally he had on the occasion of his release signed a form of undertaking which is given to prisoners. He was re-arrested in spite of that and in spite of the fact that there had been an inquiry as to the propriety or impropriety of keeping him in prison without charge or trial. I put the case to the Minister for Defence and asked whether this man would now be released. The answer was precisely the answer we shall get in every case of this kind under the present Bill.

The answer was that the Minister was advised by the detective authorities that it was not in the public interests to release this man.

Therefore raising the matter in the Dáil was an entirely illusory form of redress. It may give a man some satisfaction to see his name in print and know that his case had been raised, but it did not get him a bit nearer to release. Therefore you are, in dealing with this matter of suspicion, not in any way benefited by the fact that there is an Oireachtas sitting, because the Minister will be perfectly entitled, if this Bill goes through, to answer the challenge in respect of a particular individual by saying "we suspect him of being a person whom in the public interest we should intern." That is enough, and it is enough under this Bill. Perhaps I need not labour this point. I want to mention one other matter: The amendment deals with the words "whom such officer suspects of having committed an offence in the Second Schedule." It is not clear, on the wording of this Section, whether the officer's suspicion must necessarily refer to something which will have occurred after the passing of this Act or whether the officer is entitled to act under this Section in respect to a man whom he suspects of having committed some offence in the Second Schedule a month or two months or six months before. I hope it is not intended that this Section should be retrospective. If not, words should be inserted similar to the words standing in the name of Deputy Duggan in regard to another Section, to the effect that "This Section shall not apply to any offence committed before the passing of this Act." The Dáil will observe that if any other interpretation were put upon the Section it would be wholly unconstitutional, because we should be purporting to create offences which were not offences at the time they were committed. That would be a direct violation of the Constitution. I was going to say that you were dealing in this case with non-legal courts, but I am not sure if that is so under this Section. But it is important to bear in mind that, if the wording goes through as it stands, an officer may be entitled to arrest for an offence named in the Second Schedule which was not an offence at the time it

was committed, say, three months ago I hope, therefore, if this Section does go through, words will be put in to say definitely that there is no intention that it shall be retrospective.

Mr. JOHNSON: I want to stress the point made by Deputy Gavan Duffy regarding the illusory nature of the power which the Dáil has in raising questions here. The Minister has stressed a good deal the fact that the Executive is responsible to the representatives of the people, and that we meet from day to day and can raise questions respecting prisoners by question or by a motion for Adjournment, or by a question raised on the Adjournment. Therefore, he argues, the risk of injustice being done is very small. I would point out that the Dáil is not likely to be sitting, day by day, for six months—the length of time during which this Bill is at present designed to be in operation. The important point remains that there is nothing in this Bill that will give any more access to the prisoners in the future than in the past. They will not have any more direct access to members of the Dáil than they have had in the past. So that the plea of the Minister that the grievances or injustices that may be alleged by prisoners can be raised by their representatives in the Dáil fails, inasmuch as the prisoner has no right of access, and the members of the Dáil have no right of access to the prisoner.

Then, again, the Minister has asked that we shall have some faith in the *bona fides* and good intentions of Ministers. Apart from the fact that Ministers may vary in their composition—the present Ministry may not be all in their present offices three months hence—this is not a request that there should be faith in Ministers. This is a request that we should have faith in the *bona fides* and good sense and discrimination of every Army captain. The Army captain is to be empowered to arrest and detain for a week, and then the Minister may decide that the detention shall be continuous, without reason stated. The Minister will be the first to admit how impossible it is for him to deal with every individual case. He will take the word of an Army officer. The Army officer says: "This person is suspected of being concerned directly or indirectly in the commission of one or other of these offences." The Minister takes the Army officer's return,

and he has no time to consider the merits of the case, so many other things are demanding his attention. He simply has to remit the consideration of this particular case to the person who made the report in the first instance, or to some other subordinate officer, so that, in fact, what the Minister asks us to do is not merely to trust his *bona fides*, his generous consideration of the cases, his desire to be easy in this matter, but he does, in fact, ask us to trust to the discretion and the judgment and the *bona fides* of every Army Captain who is empowered to imprison on suspicion for one week any citizen.

Let me draw the Minister's attention to another consideration. We discussed and passed last night Section No. 1, which gave power to the Executive Minister to detain a person in respect of whom he had received a report from a responsible officer that the public safety is endangered by any such person being allowed to remain at liberty. He agreed to insert certain words there that the report must be accompanied by reasons. But now, what are we going to do? If we pass this as it stands, the effect of the change that was made last night is utterly lost, because all that has to be done now is to arrest a person on suspicion, and then the Minister may continue to detain him without any reason stated. No reasons are required. The officer may suspect or convey his suspicion after arrest to the Minister and say, "Patrick Murphy has been arrested, and is in our charge for one week. It is for you to say whether he shall be detained." The Minister has no option, unless he is going to override the original report of the officer, or to say that the officer had no right to arrest such a person, because he was not able to inquire into the merits or demerits of the arrest or detention during that week. There is no requirement in this Sub-section or in any other Sub-section that any reason shall be given. It is a question of the mere suspicion of a subordinate officer of the Army. There is no need to question the *bona fides* of Ministers in this case. There is every reason to guard against Captains in the Army, or any other officer of higher rank than Captain, suspecting without good grounds a citizen, detaining that citizen for a week, and then reporting to the Minister that he should continue to be detained. The Minister has too much to do to inquire closely into every individual

[Mr. Johnston.]

case. All kinds of problems may have arisen which require his attention, and so the citizen has to be detained on the mere suspicion, without reasons stated, of the Army Captain.

I think the case for depriving any local officer of any such power is irrefutable. It is too easy to suspect. As a matter of fact one of the troubles in this country is the almost universal prevalence of suspicion. Everybody is suspect in the eyes of somebody else. There is very little faith in the honesty of purpose or the integrity of the neighbour, and that fault applies to Army Captains and other officers just as well as it does to civilians, and a suspicion engendered in the course of a conversation is but simply a thing to develop and to authorise an arrest upon. I would again ask the Minister to limit those powers and to trust to the ordinary law for the detention for that week. A policeman to-day, if he *bona fide* suspected any person of any crime, is entitled to arrest that person, bring him before a magistrate, and ask for a remand. In very few cases will the magistrate, who believes in the *bona fides* of the prosecutor, if the prosecutor is a policeman, refuse the remand; he may the second time, unless some evidence is forthcoming. For the purpose of original detention the mere suspicion of a soldier ought not to be enough.

CATHAL O'SHANNON: Before you put the amendment I would like to remind the Dáil that it is quite possible for even higher and better trained officials than the officials defined in the Bill as responsible officers, to mislead and misinform, not consciously but unconsciously, Ministers and the Ministry. Some weeks ago I had occasion to raise certain questions dealing with the administration of a certain Department, and a Minister of whose *bona fides* no one in the Dáil has any doubt, gave certain answers. Those answers were quite and utterly incorrect. If one did not believe in the good faith of the Minister concerned, but considered that he knew his answer was untrue, one could only characterise what he said as a lie; but the answer did not come from him exactly. I feel quite sure that he answered simply on the information supplied him. That information was incorrect as every-

body, including the Department concerned, now knows. That information was incorrect, and the particulars he supplied were lies put into his mouth by other people. I am now giving an illustration which shows that even the legal advisers of a Minister may err and misinform him. I refer to a certain case that occurred in England a few weeks ago when, contrary to all advice a Minister had got, the Courts there decided that certain action taken by the Executive was wrongful action and had to be reversed. It is when you come up against difficult and delicate points like those that one must ask the Dáil to take out of the hands of what are described as responsible officers, this very great power. Every Deputy here, and everybody outside, will agree with Deputy Johnson that one of the national sins in this country is suspicion. Everybody who remembers the situation that existed for a few months before the outbreak of civil war twelve months ago, knows that if there had not been on all sides a deep-rooted suspicion of persons and matters, things might not have turned out so badly as they did. This, which is one of our national weaknesses, is going to be put into one of our Statutes, and the Ministry is proposing to exploit one of the national weaknesses at a time like this. The amendment should be accepted and this power should not be put into the hands of any of the officers defined.

Mr. DAVIN: Many of the offences mentioned in the first paragraph of part 2 of the Schedule are offences in regard to which there would, undoubtedly, be very good reason and clear proof of the commission of the offence. That also applies to most of the other paragraphs, with the particular exception of paragraphs 9 and 12. Now, with regard to paragraph 12, aiding, abetting or assisting, are very doubtful words, and officers might be authorised to arrest people without any clear or legal proof of their connection with anything mentioned in the Schedule. The Minister for Home Affairs regrets the action of certain Deputies—their niggardly action, in regard to handing over powers to the military authorities to do things mentioned in this part of the Bill. I confess that, personally, I am very jealous and shall be very niggardly in handing over to the Army of this country, which is not stabilised and, in my

opinion, not very free from political influences and party prejudices, the very heavy responsibilities that it is suggested are to be shouldered upon them. The Minister made reference to the powers that could be, and have been taken in other States to deal with a similar situation. I suggest that the army here is very different from the army of any other country that might be called upon to deal with a similar situation. If the army that serves this or any other successive Government is going to retain the confidence of all sections of the community, it must cut itself adrift from political influences and party prejudices. That, in my opinion, is not the position of the Army of this country. Some of us know that the circumstances which brought about the setting up of the Army may explain the situation here, but when one sees in the Press that Army officers are present at political meetings, one naturally has to become a little suspicious as to whether or not they are the Army of a party instead of the army of the people. That is why I would be very jealous and niggardly in regard to the handing over of any powers from the civil authority to the Army to deal with what is really a normal situation.

The Minister indicated that it was the intention, and I presume it can be carried out, to try all people who would be guilty of any crime mentioned in the Schedule. He said they were asking for the authority of this Dáil, that powers should be given to captains and other officers of a higher rank to arrest people on evidence short of legal proof. That would not apply in most cases except in Clause 12 regarding questions of "aiding, abetting, assisting in." Every Deputy in this Dáil, including many of the Deputies who sit behind the Ministers, are fully aware that hundreds of men have been arrested for spiteful reasons. The number of releases that have been referred to in this Dáil on many occasions is quite clear proof that many hundreds and thousands of men have been arrested without any genuine reason.

Mr. O'HIGGINS: Question.

Mr. DAVIN: The Minister appears to question that. It will be very interesting to know the actual facts of the hundreds of people who have been released. If there is clear proof that they have committed serious crimes, it is for the Minis-

ter to justify the reason for their release. I cited many cases—one of which I referred to here yesterday regarding the arrest of individuals in my own area. I was interested some short time ago with another member of this Dáil who sits behind the Minister with regard to a man in Co. Dublin who was arrested. When I probed fully into the matter I found that the individual arrested happened to be at a dance or social function where a typist belonging to a local military officer was present, and simply because that person refused to dance with her, or carry out the necessary social duties on this particular occasion, it is presumed that this particular typist used her influence with the military officer to get that man arrested.

Mr. O'HIGGINS: Might I intervene to say this, that if Deputy Davin knows of matters of that kind he ought to speak of them somewhere where he will not be protected by the privileges of this Dáil from the proper results of slander.

Mr. DAVIN: I deny absolutely it is a question of slander. I am making a fair statement, and can give the Minister the facts.

Mr. O'HIGGINS: It is slander.

Mr. DAVIN: I deny it is slander. You are a legal gentleman—

AN CEANN COMHAIRLE: The Deputy must be aware what he is saying might be slander anywhere else.

Mr. DAVIN: I have no desire to do anything else but state the facts.

Mr. O'HIGGINS: Go out then and state them.

AN CEANN COMHAIRLE: If the Deputy makes charges here against individuals named or unnamed he cannot be made responsible for the charges made. He is aware of that, of course. That is to say if here in this Dáil he charges an individual with something, the individual cannot take action against him. That is the Minister's contention. If the allegation were made outside there would be a legal remedy.

Mr. DAVIN: I would ask is it right for the Minister for Home Affairs to order me outside?

AN CEANN COMHAIRLE: It certainly is not. I am only explaining so

[An Ceann Comhairle.]

that there would be clarity in the matter. The contention of the Minister is that statements made here are privileged, and if similar statements were made outside there would be a legal remedy for the aggrieved party.

Mr. DAVIN: I was merely making use of this case to show reason why the powers asked should not be given. The question of slander did not enter into my mind, for I have not the slightest intention to slander anybody. It appears to me that anybody who gets up in this Dáil to put up any genuine argument in dealing with any Bill, or in supporting any amendment, is committing an offence by so doing. But I am conscious of the fact, and it is up to the Minister to deny it, that before any of the Bills are put up here they are discussed at meetings of the Party that backs the Government, and it is our duty as the Constitutional opposition to put up any reasonable amendments to the Bills introduced with the Party backing. I think that should be quite understood, and that was my contention, and it was my only intention in citing a particular case in support of this amendment.

Mr. DARRELL FIGGIS: It had not been my intention to have participated in the discussion on this amendment, except for the little incident that occurred a minute ago. It seemed to indicate the moral of the amendment so clearly that I thought it might be well to point it out. Deputy Davin rose and made a certain suggestion. The Minister for Home Affairs rose and asked him to make that in such a form that he could be called upon to prove it. In other words, Deputy Davin was reproved in this Dáil for having suspected, for having a suspicion. Now, if Deputy Davin was incorrect in taking advantage of the privilege of this Dáil in harbouring a suspicion how much more serious must it be that persons should have their liberties taken away merely through the same kind of suspicion?

Mr. JOHNSON: And without any legal remedy.

Mr. DARRELL FIGGIS: I think the Minister for Home Affairs has proved the objections underlying this clause to which the amendment is moved.

Amendment put.

The Dáil divided: Tá, 12; Níl, 40.

Tá.

Tomás de Nógla.
Riobárd Ó Deaghaidh.
Darghal Fíges.
Tomás Mac Eoin.
Seoirse Ghabháin Uí Dhubhthaigh.
Tomás Ó Conaill.

Aodh Ó Cúlacháin.
Seamus Eabhróid.
Liam Ó Duimhín.
Seán Ó Laidhin.
Cathal Ó Seunáin.
Domhnall Ó Ceallacháin

Níl.

Liam T. Mac Cosgair.
Donchadh Ó Guaire.
Seán Ó Maolruaidh.
Micheál Ó hAonghusa.
Domhnall Ó Mocháin.
Seamus Breathnach.
Pádraig Mac Ualghair.
Peadar Mac a' Bháird.
Deasmhurnhain Mac Gearailt.
Micheál de Duram.
Seán Mac Garaidh.
Pilib Mac Cosgair.
Micheál de Stáineas.
Domhnall Mac Cárthaigh.
Sir Seamus Craig, Ridire, M.D.
Gearóid Mac Giobáin, K.C.
Liam Thrift.
Eoin Mac Néill.
Liam Mac Aonghusa.
Pádraig Ó hÓgáin.

Pádraic Ó Máille.
Seosamh Ó Faoileacháin.
Seoirse Mac Niocaill.
Fionán Ó Loingsigh.
Seamus Ó Cruadhlaoiel.
Cristóir Ó Broin.
Caoimhghín Ó hUigin.
Próinsias Bultin.
Seamus Ó Dólaín.
Aindriú Ó Láimhín.
Próinsias Mac Aonghusa.
Eamon Ó Dúgáin.
Peadar Ó hAodha.
Seamus Ó Míchadha.
Seosamh Mac Giolla Bhrighde.
Liam Mac Sioghaire.
Tomás Ó Domhnaill.
Farnán de Blaghd.
Uinseann de Faoite.
Seamus de Eura.

Amendment declared lost.

Mr. J. EVERETT: I beg to move amendment No. 10, to delete sub-section (2) of Section 2. Under a previous Section the Minister is given almost unrestricted power to intern persons on suspicion, but in my opinion the most dangerous provision in the whole Bill is this Sub-section. The Sub-section deals with public safety, which is already extravagantly provided for under Section 1, Sub-section (c). Sub-section (2) gives power to a responsible officer to arrest certain persons mentioned in another part of the Bill. If that Sub-section were to become operative it would be possible, in my opinion, for a policeman or a police officer to arrest, and have interned on suspicion, anybody suspected of committing even minor offences. That is why I move the deletion of the Sub-section.

Mr. O'HIGGINS: Sub-section 2 applies only to arrests made under Section 2. That is to say, it would apply only to arrests made by a responsible officer where a person was found committing, or attempting to commit, any of the offences mentioned in Part 2 of the Schedule of this Bill, or was reasonably suspected of having committed these offences. These are not, as the Deputy says, minor offences. I do not think there is anyone who would contend that, in the existing circumstances in the country, any single one of the offences set out under separate heads in Part 2 of the Schedule are minor offences. These offences include robbery under arms, arson, unlawful injuring or destroying or attempting to injure or destroy property, illicit distillation, and so on. If you admit the principle of deterrent detention, if you admit the principle of detention without trial, then it is not reasonable to say that a person shall not be detained who is seriously suspected of having committed one or more of these offences, or a person who was arrested by a responsible officer and found committing, or attempting to commit, these offences.

Mr. JOHNSON: What does he mean by deterrent detention? Whom is it he intends to deter? Is it the person who is arrested.

Mr. O'HIGGINS: For one, yes.

Mr. JOHNSON: It is intended to deter the person who is interned from committing an offence. If a captain in the army suspects that I have aided a barman in selling illicit spirits in his employer's possession, of which he has control, then the officer of the army may arrest and detain, and the Minister may order my continued detention to deter me from aiding or abetting a barman from selling any illicit spirit that belonged to his employer. Under this Sub-section that is what could happen. One of the offences is selling or offering or having for sale any illicit distilled spirit—a very grievous offence no doubt. Another is the offence of illicit distillation or having possession or control of any illicitly distilled spirits.

Now it is confidently asserted, and I have no doubt it is true, that much of the illicit spirits sold in the country is sold in ordinary licensed premises. The man responsible is the licensee and he employs in one department of his shop a shop assistant, who is selling paraffin oil or butter or both at another counter, but the army officer suspects that this shop assistant knows something about the possession by his employer of illicit spirits, and that suspicion is sufficient ground for arrest. Then we are to empower the Minister to detain, for an unlimited period, that person who is suspected of this offence. The Minister would say, of course, that that is an extravagant illustration of what may happen. It is not at all extravagant. He is determined to put down the distillation of illicit spirits, and in the exercise of that determination he sends instructions throughout the country that they must keep a sharp lookout on persons who may be engaged in the production or sale of poteen, and then the powers that are given under this Act come to the notice of the Army captain and he suspects shop assistant A of knowing something about the sale of illicit spirits in his employer's shop and he orders the arrest of that shop assistant.

We are asked, now, to give power to the Minister to detain, for any rate, six months, assuming that the Act comes to an end in six months, for that offence without any requirement that the ground for suspicion shall be stated, or that there should be any trial or any charge at any time. The power to de-

[Mr. Johnson.]

tain, interminably, or at least for six months is to be given to the Minister because an officer who is called a responsible officer, and who may be an Army Captain, suspects that a given person may be concealing information. That is altogether too drastic. The Minister pleads that once you have conceded that the Minister should be empowered to detain persons as a deterrent, then everything else should be conceded, and that there should be no restriction whatever, no supervision, no check on the Minister's activities. I admit there is a great deal in that contention. Once you have told the Minister that so far as the exercise of power over the individual citizen is concerned he is supreme; once you have told him that you give him these powers, then it is somewhat futile to suggest that there should be any checks or that your faith should not be absolute. Once you have given the Minister that power the actual deduction to draw is that the faith you put in him should be absolute faith, so that the ordinary checks of the ordinary law in ordinary countries are not necessary to be applied here. Though the logic is with the Minister I hope the practice will be more in accordance with hard facts. The hard facts—perhaps the Minister will be glad to know—are these: That even Ministers are human; they make mistakes, and they may be subject to prejudices; they may be affected by passion; they may be tired and weary, too weary and too tired to deal with details. The ordinary question of a civilian's liberty may be of importance to the individual, it may be of importance to the prisoner, but it is nothing compared with the cares and affairs of State. That is a very natural feeling for a Minister to have at certain times. That is the justification for limiting the faith that one has to place in a Minister even when one has conceded that there should be some power of detention. That faith is not absolute. We do think that Ministers are human and that they may make human mistakes. They may be subject to the ordinary limitations of ordinary humanity. For that reason it is desirable that there should be some check on the power of Ministers to detain citizens. I ask the Dáil to bear in mind that this is not detention for com-

mission of offences, that it is not detention for stated belief that offences may have been committed by the prisoner. It is to give power to the Minister to detain a prisoner because another person suspected that that prisoner may have been indirectly associated with the commission of an offence by another person. That is a power that ought to be opposed. It ought not to be asked for, but having been asked for I hope the Dáil will indicate its unwillingness to hand over those powers over the liberties of the citizens to a Minister merely upon the suspicion of an Army officer.

Mr. GAVAN DUFFY: There is a point which seems to have escaped attention in reference to the scope in point of time of the word "detention" in this and other Sections. Section 17 says, "This Act shall continue in force for six months after the passing thereof, and shall then expire." I have said before that I put no faith in those six months, because if this Bill is right now it will be equally right six months hence. But let me assume that I am quite wrong and that the Bill does expire six months hence. The prevailing notion that internment will expire at the same time as the Bill is entirely fallacious. If this Bill expires six months hence, the power to order internment will expire with the Bill, but, as I read the Bill, there is nothing whatsoever in it to declare that a person already interned shall be entitled to his release at the moment when the Bill expires. I think that it must be quite clear to Deputies examining this section, as well as others of a similar effect, that if this Bill goes through as now drawn the power to continue internment will continue after the Bill itself has expired. If that be so the prospect is a great deal more serious than it would have been had this actually been a six months' measure. I think the Dáil cannot get away from that conclusion, that the power to continue internment will remain when the Act is dead. The newspapers reported the other day a very unfortunate speech by a Minister. So far as I am aware that report has not yet been disavowed. The Minister is reported to have stated in Cork that, if necessary, prisoners would remain in prison until they rot. That was a sinister phrase coming from a responsible officer of the Executive, and I hope it does not repre-

sent the Ministerial mind. I should like to hear a disavowal of a phrase like that. Reading that in conjunction with the interpretation I have ventured to suggest to the Dáil as to the meaning of this Act in perpetuating internment, the phrase has a meaning. It does suggest that the intention of the Executive is to keep certain persons in prison for very much longer than the duration of the Bill. So far this matter has not been made clear from any Ministerial source, and I have failed to find in this Section, or elsewhere, anything which will effect the liberation of the prisoners interned six months hence, even on the assumption that this Bill then comes to an end.

Mr. O'HIGGINS: The Deputy is quite wrong. Legal power to detain persons without trial is given by the Bill and lasts only while the Bill lasts. When the lifetime of the Bill expires, if there is not in the country a condition of war or of armed revolt, which I trust there will not be, then all legal power to detain persons without trial goes with the Bill.

Mr. GAVAN DUFFY: I am very glad to hear that. Can the Minister point to the Section which shows that? I have failed to find it.

Mr. FITZGIBBON: I supported this Bill on the Second Reading and I intend to support a good deal of it in Committee. I do not care to set up my own opinion against that of Deputy Gavan Duffy or anybody else, but it certainly never occurred to me that after this Bill had run its course, in accordance with the last Section, for six months, that it would be open to make a return to any writ of *habeas corpus* for a prisoner who was kept in continued detention that he was being lawfully detained under a Bill the powers of which were spent. This Bill confers power, as I read it, upon a Minister while the Bill is in force to detain people in internment without trial and it does not in the technical sense suspend *habeas corpus* at all. Any detained prisoner can apply for a writ of *habeas corpus*, but it is a perfectly good answer to his application, I take it, that he is not to be let loose because he is detained under the powers of this Bill. When the powers of this Bill are spent, that is to say, when the 6 months for which it is in operation have come to an end, it would occur to me that such a

return would be laughed out of Court at once. The prisoner under detention, who was put there under this Bill, applies to get out and the return is made that he is in lawful detention and is not entitled to be released or tried. How does that come about? If the answer is "The Public Safety (Emergency Powers) Bill" the answer to that is that the Bill is dead. That would seem to be a perfectly sufficient answer to any attempt of any Minister to retain any prisoner under the powers conferred by this Bill for a single hour after the Bill itself is spent.

Mr. GAVAN DUFFY: We have all great respect for Deputy FitzGibbon's opinion on a legal point of this kind, but it is of sufficient importance to justify me in putting the reason for the contrary view, however wrong that view may be, and I hope it is wrong. The reason is that during the continuance of the Bill the Executive has power to order detention. That detention is quite indefinite in period. There is nothing in any Section, as far as I am aware, limiting the time of it, and with all respect to Deputy FitzGibbon I venture to think it will be quite competent for a Court to hold, notwithstanding the fact that the power to order internments has ceased because the Act has ceased that the Order, which was good when it was made for indefinite internment, continues to be a good Order until such time as the Executive choose to abolish it. I should like very much to see words introduced into the Bill to make it impossible for an interpretation of that kind to be put on the Bill, more particularly as we now have it from the Executive themselves that they have not that intention.

Mr. O'HIGGINS: Read Section 1 carefully.

CATHAL O'SHANNON: The point raised by Deputy Gavan Duffy and answered by the Minister and by Deputy FitzGibbon is, I think, of very great importance. Even if Deputy Gavan Duffy is in error still there is sometimes a virtue in setting out an error in order to extract the truth. Like Deputy Gavan Duffy I have great respect for the opinion expressed by Deputy FitzGibbon, but I should like to have his opinion and a statement from the Minister on another point. I hope I am not going outside

[Cathal O'Shannon.]

the scope of the discussion in order to get that point out. Certain provision is made in the Bill for certain sentences, hard labour and perhaps penal servitude, extending over a period of years. Are we to take it on the answers given that when a case is put to the Court that the Bill has expired, therefore there is no power to detain in deterrent detention a prisoner? Are we to take it also that the sentences of those not merely detained, but found guilty and sentenced under the Bill will automatically expire when the Bill expires? I do not think the Minister will say that such sentences will expire.

Mr. O'HIGGINS: May I explain that Section 1 provides that, subject to the provisions of this Act it shall be lawful for an Executive Minister to cause the arrest and to order the detention in custody of any person. That is detention without trial, what I have called the deterrent detention. A sentence passed by a Court after trial is a very different thing and will not cease to have effect when the Act expires.

CATHAL O'SHANNON: That is as I suspected. But does the Minister not know that I could go a little beyond that, as he will have power, or any Executive Minister will have power, to go beyond it, because under the provisions of the Bill the Minister can order the period of detention to be as far as 18 months or 2 years.

AN CEANN COMHAIRLE: Where is that in the Bill?

Mr. JOHNSON: Line 2, Sub-section 2.

AN CEANN COMHAIRLE: Where is the question of period mentioned in Sub-section 2?

CATHAL O'SHANNON: There is nothing in the Bill forbidding him to do it. There is nothing in the Bill to confine the power of the Minister to detention for six months.

Mr. DUGGAN: Except Clause 17.

AN CEANN COMHAIRLE: Except the limited duration of the Act as defined in Section 17.

Mr. O'HIGGINS: And Section 1.

CATHAL O'SHANNON: The whole thing shows what we have remarked on previous occasions, that Ministers' speeches do not always correspond with the provisions of the measure. There was a provision yesterday, and the Minister was good enough to amend and bring it into conformity with his speech. I think Deputy Gavan Duffy's point will have to be more closely examined and gone into before I can accept the assurances that have been given. The Minister, for instance, has been talking all along about reasonably suspected persons. The Bill does not make provision at all for reasonable suspicion. It provides merely for suspicion. Of course the Minister may claim that if we believe in the *bona fides* of the Ministry, and of the officers concerned, that therefore we must believe they will do things reasonably. It does not follow at all. Deputy Johnson has referred to certain offences covered by the Section and Sub-section and in particular to the offences mentioned in Sections 10 and 11. Now, detention as a military measure, or as a civil measure, for the preservation of the State, has always I think been associated with crime, or at least with offences of a political or semi-political nature. The Minister is extending the offences to include others which no one ordinarily regards as anything in the nature of political or semi-political offences. Even under the British regime, except for the period during which the First and Second Dáil were functioning, no one claimed that illicit distillation and poteen-making were political or semi-political offences. They were ordinary offences against the ordinary law. Although it was for private gain the Minister will remember that that particular manufacture was elevated, more or less, to the dignity of a political offence two or three years ago. I remember that in various parts of the country certain people engaged in the sale of spirits sold spirits which they called "Dáil Eireann." And they would tell you with a great deal of pride that they had paid duty to the Dáil. If you are going to take this into the scope of the clause, I think the Minister might go a little further and add to the sale, exposing for sale, the consumption of this stuff, the purchase of the stuff; and then you will have everybody who desires—

AN CEANN COMHAIRLE: The Deputy can move an amendment to insert that in the schedule.

CATHAL O'SHANNON: The Dáil, I hope, is giving consideration to the arguments that have been used, and not merely taking the word of the Minister that everything is all right, provided you will take his interpretation of it. Some of us are not prepared to take his interpretation. That is why we want the thing amended. If he is prepared to amend it to please us, we will accept it. But I ask the Dáil not to accept the Minister's speeches in defence of a particular section as being a correct interpretation of it.

Mr. JOHNSON: I think that this point that has been raised respecting the period of detention is very important. It requires very close consideration. It is suggested that the period must expire at the end of six months because of Section 17, but I submit that it is a not unfair interpretation of this Section to say that the Minister may order the detention in custody in any place in Saorstát Éireann of a person suspected under this Section for a definite period. If the Minister in his Order says that a suspected person must be detained for a period of two years in a certain establishment, he is entitled to do that under this Section. The question may arise as to whether he has power. Deputy FitzGibbon raises the question whether the Courts would not order his release under *habeas corpus*, but I note that in the latter Sections, when dealing with persons found guilty on indictment, the phrase is used, "punishment and imprisonment." The implication is that the person is being punished for an offence committed, but the order for detention is not for an offence committed, but it is "in the interests of public safety." And that Order may contain a period. There is nothing here which definitely and assuredly prevents that Order stating that the prisoner shall be detained for a specific period. It may be that the prisoner's friends have no interest in the matter; it may be that the prisoner's friends would be quite pleased that the prisoner shall be detained in some of the alleged comfortable establishments; it may even be that the prisoner would prefer to be detained, and he does not apply to the

Courts. He is not going to seek *habeas corpus*.

Mr. O'HIGGINS: May I say, Sir, that I am quite prepared to insert—

AN CEANN COMHAIRLE: Is this a point of explanation?

Mr. O'HIGGINS: Practically. I am quite prepared to insert on the Report Stage anything that would mark it as quite definite that there was no intention to detain without trial for any longer period than the period of the existence of the Bill.

Mr. GAVAN DUFFY: Will the Minister look at Section 4, Sub-section 3 (b), and say whether his undertaking will apply to that too; because in that particular Section the Executive has power expressly given to it to order detention for such period as it thinks necessary in the public safety. That is page 4, line 5.

Mr. O'HIGGINS: Let us look first at Section 1—"It shall be lawful for an Executive Minister to cause the arrest and, subject to the provisions of this Act, to order the detention . . ." This "subject to the provisions of the Act" would render the detention subject to, for instance, the provision of Article 17, dealing with the lifetime of the Bill. That expression, "subject to the provisions of this Act" could be inserted also in Section 2. What is the Section that the Deputy has referred to?

Mr. GAVAN DUFFY: Page 4, line 5, Section 4, Sub-section 3 (b).

Mr. O'HIGGINS: "Subject to the provisions of this Bill" could be inserted there..

AN CEANN COMHAIRLE: That is to say, the Minister does not mean that to apply to a period beyond the duration of the Act.

Mr. O'HIGGINS: And I have satisfied myself that it cannot.

Mr. JOHNSON: The words referred to may be intended to refer to the six months that this Act shall continue in force and shall then expire. The mere insertion of these words, "subject to the provisions of this Act," will not ensure the limitation or the detention for that period.

Mr. O'HIGGINS: What do you suggest?

AN CEANN COMHAIRLE: I understood the Minister to say that he was prepared to insert any words which would ensure the restriction of the period.

Mr. JOHNSON: That is satisfactory. Between now and the next Reading the Minister will insert words which will prevent the possibility of any person being detained in custody after the period of this Act has expired.

Mr. O'HIGGINS: If I find on examination that it is necessary—I am myself positive that it is not necessary—I undertake to look further into the matter, and if I find there is even a shadow of doubt about the thing I will insert such words.

Mr. JOHNSON: Of course the Dáil ought to be satisfied, not merely the Minister, and we would like to make it sure now that such powers might not, perchance, be embodied in the Bill. But, assuming that that provision is made clear and undoubted, that the period of detention is strictly limited, we still object to giving power to an Executive Minister to order the detention in custody, even for the period of the Act in any place in Saorstát Eireann of a person who has merely been arrested on the suspicion of an Army captain. We shall bear in mind that it is not intended to be punishment; it is intended to be a deterrent. It is not intended to deter the Army captain from his suspicion, but it is intended to deter the prisoner from allowing himself to be thought of as a suspicious person. I think no case has been made for the inclusion of the sub-section.

Mr. GAVAN DUFFY: In view of the undertaking given by the Minister, would I be permitted to point out that one difficulty that arises is this, that in three different sections three different phrases are used in connection with detention?

Mr. FITZGIBBON: On a point of order, we are discussing now an amendment that has nothing whatever to do with the period of detention. Surely it is not open now, upon an amendment, to delete Sub-section (2), to discuss a period of detention that may come up under

two or three other sections which we have not yet reached. Especially is this so, having regard to the undertaking that has been given by the Minister and that has been rejected by the opponents of this section.

Mr. JOHNSON: I submit, as a matter of order, that when a sub-section deals with detention, "detention" must infer a period, and consequently any reference to the period of detention is in order.

Mr. FITZGIBBON: My point was that an answer was given with regard to the period of detention so far as this sub-section was concerned, and therefore if any question about the period of detention under any other sub-section arises, it should come on when that sub-section is reached.

Mr. GAVAN DUFFY: I rose because the Minister had given an undertaking, in response to the objection I raised, and I desired to point out that the amendment it was proposed to make—

AN CEANN COMHAIRLE: In this sub-section?

Mr. GAVAN DUFFY: Yes. I wished to point out that that amendment ought to be one that would fit other sub-sections where the same matter of detention is dealt with in different language. And as the question of the amendment arises now—

AN CEANN COMHAIRLE: The question of the amendment does not arise now. That is the essential point. I am surprised that Deputy Gavan Duffy does not realise that. In fact, I would like to place it on record that he does, in fact, realise it. It seems to me that I have given considerable liberty in this discussion to the question of the period of detention. Everybody must be aware of that. If Deputy Gavan Duffy believed, when this Bill was being read a second time, that the terms of the Bill gave power to any Executive Minister to intern people indefinitely, I think the Second Reading was the time that that should have been stated, because it is a very important principle. No mention was made of it. We took a long period yesterday to discuss Section 1 of this Bill, which gives power to detain. No mention was made of the period of detention

—no mention whatever. Deputy Gavan Duffy raises it to-day on Sub-section (2) of Section 2—

Mr. GAVAN DUFFY: On different wording.

AN CEANN COMHAIRLE: And the Minister has given an undertaking that he will go very carefully into the matter as far as Sub-section (2) is concerned and as far as the other sub-sections are concerned. Now, we are discussing an amendment to delete Sub-section (2), and on that amendment I will not allow any further discussion of the question of the period of detention. If Deputy Gavan Duffy entertains fears that other sections of the Act may be interpreted so as to give power to the Executive to detain people indefinitely, when we come to these particular sections or sub-sections he will have ample opportunity for raising the question.

Mr. JOHNSON: On a point of order, I appreciate the importance of your ruling, but I hope I am not misinterpreting it, and I hope I am not asked to interpret it as meaning that if, in the course of a discussion, it is found by any Deputy that issues are raised that were not foreseen on the Second Reading, that they cannot be raised on subsequent occasions.

AN CEANN COMHAIRLE: No. This is a matter which really concerns the whole Bill, and it would have been very properly raised on Second Reading. If this very important matter and very important legal point escaped the attention of legal Deputies on Second Reading, they are, of course, entitled to raise it in the proper place.

Mr. JOHNSON: Legal Deputies or others.

AN CEANN COMHAIRLE: Or others. But they are only entitled to raise it in the proper place. In other words, if a Deputy forgets to raise something on the Second Reading—something which concerns the whole Bill—he cannot make three speeches on every motion made during Committee Stage on the point which he forgot on the Second Reading.

Mr. GAVAN DUFFY: Do I understand from your ruling that it will be competent to refer to this question on a subsequent section dealing with deten-

tion in different words, and to refer, at the same time, to previous sub-sections where similar expressions occur with different wording. The point is the advantage of taking several sub-sections together in dealing with the same matter. I do not know how far one would be in order in doing so under your ruling.

AN CEANN COMHAIRLE: The question of the period of detention is done with so far as this sub-section is concerned.

Mr. LYONS: I support the amendment to delete the sub-section. I do so solely because it gives too much power to the Executive Minister. If this section goes through in its present form we will have wholesale arrests throughout the country. It sets out that it shall be lawful for the Executive Minister to order the detention in custody in any place in Saorstát Éireann of any person arrested under this section in respect of whom the Minister is of opinion that the public safety is endangered by such person being at liberty. The meaning of that is, if a person at the present moment is a bit talkative in the country, without any real meaning attaching to his words, and if his conversation is overheard by an Army captain or by a person who would give information against him, he could be arrested under this section. Again, if a person in the country has an enemy, although he may be one of the best supporters of the State, if that enemy invests 2d. in a stamp and sends information about that person, he can be arrested and detained anywhere in the Saorstát. I think that is going a bit too far. What is wrong at present is that we have too many prisoners. I want to see if there is the least hope that the Minister is really democratic and out for the welfare of the people, and that he is not putting forward clauses like these for the sole purpose of arresting every man and woman in the Saorstát who may think contrary to the way the Minister for Home Affairs would wish them to think. You will find in any part of the country that this Bill is the fireside talk. The Government are not gaining anything by allowing this sub-section to remain part of the Bill. They would gain a great deal by agreeing to the amendment to delete the sub-section.

The people have been terrorised long enough, and I think it is not necessary

[Mr. Lyons.]

to bring in a law such as this for the pure purpose of trying to govern. If you want to govern properly do not make wholesale arrests and cast people into prison, and do not use words such as those I was sorry to see from the papers that the Minister used the other day in the country—that the people should stop in prison till they rot. I wonder, before the Saorstát came into being, what propaganda did the men who were then arrested and detained use when they were in prison. It may well be that we heard so much from the Ministerial Benches because they know so much about prison life themselves. In the attempt to force the enemy to evacuate this country people credited anything which came from prison. Ministers put up so much propaganda in their own time, they judge everybody by their own experience. I ask the Minister for Home Affairs to agree to this amendment. I do not want to specify the time when you shall release the prisoners. You have already agreed that in six months time this Bill will cease to be an Act, and the prisoners will be set free. I am very pleased to hear even that slight explanation from the Minister, but when we come to realise hard facts and look at the matter from a proper Christian point of view it is not fair to have prisoners in the country who, under this section, will be arrested and detained by military captains or by the Minister himself or his associates, and who will not be brought to trial. It specifies here that they will be brought to trial in one week, but I do not

credit that. There are prisoners who were arrested a week of months, and who are still untried, and who have had no charge brought against them. The same thing will apply under this section. These prisoners will be arrested and put in prison for as many days as there are hours in the week and weeks in the year, and shall not be tried unless the Minister so chooses.

Therefore, we must take into account all the innocent persons arrested in the country who may have nothing to say against the Government, but who may be simply an enemy of a man who may be a friend of a military captain or who may associate with "G" men and detectives of the Free State and give information about innocent persons. If he is the father of a family he is taken from his family and put into prison, and the helpless little children are allowed to starve in the streets. The father will not be tried, although he is innocent. He is allowed to remain in prison, and the children will become an encumbrance on the State, and if any public body tries to help them the Minister will, I am sure, step in and not allow it to do so. That is why I support the amendment. I know what will happen. With these people detained under this section their families will suffer. Who are you making to suffer? The rising generations, the youth that is going to build up the Saorstát. I therefore support the amendment to delete Sub-section (2).

Amendment put.

The Dáil divided:—Tá, 12; Níl, 41.

Tá.

Tomás de Nóglá.
Riobárd Ó Deaghaidh.
Tomás Mac Eoin.
Seoirse Ghabháin Uí Dhubhthaigh.
Tomás Ó Conaill.
Aodh Ó Cúlacháin.

Séamus Éabhróid.
Liam Ó Daimhín.
Seán Ó Laidhín.
Cathal Ó Seanáin.
Domhnall Ó Muirghéasa.
Domhnall Ó Ceallaoi in.

Nil.

Liam T. Mac Cosgair.
 Donchadh Ó Guaire.
 Gearóid Ó Suileabháin.
 Seán Ó Maolruaidh.
 Micheál Ó hAonghusa.
 Domhnall Ó Mocháin.
 Séamus Breathnach.
 Peadar Mac a' Bháird.
 Deasmhumhain Mac Gearailt.
 Micheál de Duram.
 Seán Mac Garaidh.
 Pilib Mac Cosgair.
 Micheál de Staineas.
 Domhnall Mac Cárthaigh.
 Maolmhuire Mac Eochadha.
 Sir Séamus Craig.
 Gearóid Mac Giobúin.
 Liam Thrift.
 Eoin Mac Néill.
 Liam Mac Aonghusa.
 Pádraig Ó hÓgáin.

Pádraic Ó Máillo.
 Seosamh Ó Faoileacháin.
 Seoirse Mac Niocaill.
 Piaras Béaslai.
 Fionán Ó Loingsigh.
 Séamus Ó Cruadhlaoich.
 Críostoir Ó Broin.
 Caoimhghin Ó hUigín.
 Proinsias Bulfin.
 Séamus Ó Dóilín.
 Aindriú Ó Láimhín.
 Proinsias Mac Aonghusa.
 Éamon Ó Dúgáin.
 Peadar Ó hAodha.
 Séamus Ó Murchadha.
 Seosamh Mac Giolla Bhrighd.
 Liam Mac Sioghaird.
 Tomás Ó Domhnaill.
 Earnán de Blahid.
 Unseann de Faoite.

Amendment declared lost.

Mr. COLOHAN: I beg to move in Sub-section (2), line 13, after the word "Minister," to insert the words "certifies in writing that for stated reasons he." The object of this amendment is to protect the person arrested from being detained for a lengthy period without any reason being given. I think the Executive Minister should certify and state clearly why the person arrested is considered dangerous. If this amendment is not accepted it would be possible to arrest and detain people who hold strong political opinions against the policy of the present Government. That is a thing we should have to see to. I contend, if the responsible officer in the district merely suspects citizens of having done any of the offences in Part II. of the Schedule of this Act, they can be arrested and detained, and thus be prevented from exercising the rights and liberties which they are entitled to exercise according to the Articles of the Constitution. If this goes through, I think the constitution is a dead letter as far as the rights and liberties of a citizen are concerned.

Mr. O'HIGGINS: I am not accepting the amendment. It is not proposed to serve a charge on prisoners whom it is proposed to intern, and it is not proposed to bring them to trial. Later on, when we come to Section 4, dealing with the Appeal Councils, I will state my intention to accept or insert an amendment providing that internees seeking to appeal before the Appeal Council shall be informed with respect to all the offences

set out in the Schedule. The principle of the Bill is to provide for internment without trial, and Deputies know that they owe the peace and security in which they are now living to the fact that many people have been arrested against whom it would be impossible to adduce legal proof, or in regard to whom it would be impossible to formulate a specific charge. If Deputies think that we do not sufficiently understand what the public safety means and what steps public safety demands, then they ought to search for someone who does understand these things. This amendment, if passed, would involve the serving on each person whom it was proposed to intern of a specific charge—to state reasons, or, as the Deputy put it, to state clearly and specifically the reasons for which it is proposed to intern. We do not propose to state any other reasons except that, in our opinion, the public safety demands that step. If the internee states his intention to appear before the Appeal Council he will receive information as to the offences in the Schedule in respect of which he has been arrested and detained on suspicion.

Mr. JOHNSON: I think the Minister has misunderstood the purport of this amendment. It does not say that the reasons shall be submitted to the prisoner. It does not deal with those cases that the Minister has referred to. It asks that there shall be done in this case by the Minister what he has agreed shall be done under Paragraph (c) of Section 1,

[Mr. Johnson.]

in which he agreed that where a responsible officer, or the military authorities, send a report to the Minister that the public safety shall be endangered by a particular person being allowed to remain at liberty, that reasons should be stated by that responsible officer.

Mr. O'HIGGINS: To whom?

Mr. JOHNSON: To the Minister. The amendment requests that where the Minister has decided to keep in internment a prisoner who has already been arrested, that he should set out, write down, put on record somewhere, his reasons for deciding that that person is to be kept in custody.

An Leas-Cheann Comhairle took the Chair at this stage.

Mr. JOHNSON: The amendment does not provide for the submission of these reasons to the prisoner at the time when the order is made. The amendment asks that the Minister shall record in writing the reasons which decided that the public safety would be endangered by such person being set at liberty. Then, if at a later period the prisoner decides to take advantage of the provisions of the Bill setting up the Appeal Councils, such reasons may be referred to by the Appeals Council, but they will have been stated at the time the Minister made his decision. I think the amendment is in thorough accord with the promise that the Minister made with respect to a previous section. In the one case a responsible officer, or the military authorities, were to give their reasons to the Minister. In this case we ask that the Minister should put on record on his own books his reasons, not necessarily for presentation to the prisoner at all, so that they will be clear for the Appeal Councils or for his own satisfaction, even for his own future reference. I think there is nothing objectionable even from the Minister's own point of view, in the suggestion.

Mr. O'HIGGINS: I misunderstood the amendment. On the understanding that this will be a mere confidential Departmental record available only for the Appeals Council if and when the detained person thought fit to appear before it, and on the definite understanding that

it is not a document to be served on the prisoner when he is arrested, I would accept the amendment.

Mr. JOHNSON: I think the Minister will see that the phrasing of the amendment does not imply any presentation of these reasons to the prisoner.

Amendment agreed to.

Mr. O'CALLAGHAN: I beg leave to move Amendment No. 12:—"In Subsection (3), to delete the words 'or with any other offence or offences.'" This Bill enables the Minister, having arrested a man on mere suspicion, to keep him in custody until he is able to find an offence to charge him with other than the one on which he was arrested on suspicion. The ordinary rule is that an arrest is not made, or the custody continued, unless there is evidence pointing to the person's guilt. This power encourages the framing of charges, such as the planting of a revolver, etc., and I move the amendment.

Mr. O'HIGGINS: This amendment is unsound. The effect of it would be that a person arrested under Section 2 could not be charged with any offences other than those mentioned in the Schedule. The Deputy must understand that the word "offence" there means, and means only, an offence in law, and to say that a person who had been arrested by an officer could not be charged with any offence except the offences set out in the Schedule seems to be raising certain citizens above the law.

Let us assume that a person is arrested by an officer and he is detained for a week, and in the course of that week inquiries are made with a view to ascertaining whether he had, in fact, committed or had been in any way concerned in committing any of the offences set out in the Schedule, and it is found to satisfaction that he was not, but in the course of these inquiries the fact comes to light that in other respects he had broken the law, why, of course, it should be open to the proper authorities to charge him with such offences. The Deputy's amendment amounts to this, that it would not be so, and that they ought not to be in a position to charge him with any offences except some one or other of the offences in the Schedule of this Bill. That is not sound.

Mr. FITZGIBBON: I should have supported the last amendment the Minister has accepted. I do not think this amendment, if accepted, would really be of assistance to the prisoner whom Deputy O'Callaghan desires to protect. Suppose that a prisoner so arrested, or in preventive detention, was at the end of the week to be discharged, but during that period of detention it had been found out that he had been guilty of one of the ordinary crimes of larceny or assault for which people are liable to be prosecuted, the only result of accepting this amendment would be that he would be formally discharged and re-arrested, as often happens in particular cases where a person has been tried and acquitted by a jury, and has been then re-arrested on a charge of assault with intent to injure, and things of that sort, and charged at once. It is desirable to get rid of mere formal procedure like that. It seems to me the only result of accepting this amendment would be to continue that method of formal discharge and re-arrest, which does no good to anybody, and brings the administration of the criminal law more or less into disrepute. The only effect of the amendment would be that if in the course of detention evidence of a crime is found other than semi-military and revolutionary crimes specified in this Schedule, it shall be unlawful to charge him with

any such crime. I do not think the amendment would do anything more for a prisoner who could be charged under the section as it stands than to allow him to be released momentarily and re-arrested.

CATHAL O'SHANNON: As a victim of the procedure mentioned by Deputy FitzGibbon I agree with him that there would not be much to be gained by a prisoner if this amendment were adopted, and I suggest that Deputy O'Callaghan should withdraw it. I remember on a particular occasion being arrested for a particular thing, and the British authorities, finding that they were not able to bring me to trial for that particular thing, simply left me outside the jail, where a party of police were waiting to take me inside again, and another charge was brought forward. It would have been more pleasing to me if I had been charged with the offence while in custody than going outside and finding that they were waiting to dump me in again.

Mr. O'CALLAGHAN: Having heard the various arguments, I withdraw the amendment.

Amendment by leave withdrawn.

Motion made and question put: "That Section 2 as amended stand part of the Bill."

The Dáil divided:—Tá, 36; Níl, 11.

Tá.

Liam T. Mac Cosgair.
Gearóid Ó Suileabháin.
Seán Ó Maolruaidh.
Micheál Ó hAonghusa.
Domhnall Ó Mocháin.
Pádraig Mag Ualghaigh.
Micheál de Duram.
Seán Mac Garaidh.
Pilib Mac Cosgair.
Micheál de Staines.
Domhnall Mac Cárthaigh.
Maolmhuire Mac Eochadha.
Sir Séamus Craig.
Gearóid Mac Giobúin.
Liam Thrift.
Eoin Mac Néill.
Liam Mag Aonghusa.
Pádraig Ó hÓgáin.

Seosamh Ó Faoilocháin.
Seoirse Mac Niocaill.
Piaras Béaslai.
Fionán Ó Loingsigh.
Criostoir Ó Broin.
Caoimhghin Ó hUigín.
Proinsias Bulfin.
Séamus Ó Dólaín.
Aindriú Ó Láimhín.
Proinsias Mag Aonghusa.
Éamon Ó Dúgáin.
Peadar Ó hAodha.
Séamus Ó Murchadha.
Seosamh Mac Giolla Bhrighde.
Tomás Ó Domhnaill.
Earnán de Blaghd.
Uinseann de Faoite.
Seamus Ó Cruadhlaoich.

Níl.

Tomás de Nóglá.
Riobárd Ó Deaghaidh.
Tomás Mac Eoin.
Tomás Ó Conaill.
Aodh Ó Cúlacháin.
Séamus Eabhróid.

Liam Ó Daimhín.
Seán Ó Laidhín.
Cathal Ó Seanáin.
Domhnall Ó Muirgheasa.
Domhnall Ó Ceallacháin.

Motion declared carried.

SECTION 3.

(1) Every person who is now detained in the custody of or held in internment by the military authorities and has not before the passing of this Act been sentenced to a term of imprisonment or penal servitude by any tribunal established by the military authorities, may be detained in custody under this Act

(a) by the military authorities if in the opinion of those authorities his detention is a matter of military necessity in the present emergency, or

(b) under an order of an Executive Minister if in the opinion of such Minister the public safety would be endangered by such person being set at liberty.

(2) No person detained in custody under an order made by an Executive Minister under this section shall be set at liberty without the consent of the Minister for Defence.

(3) Every person who at the date of the passing of this Act is serving a sentence of imprisonment or penal servitude imposed on him by a tribunal established by the military authorities shall, whether he is or is not a person ordinarily subject to military law, continue to serve such sentence so long as it is unexpired.

Mr. MORRISSEY: I beg to move the following amendment:—

In Sub-Section (1) (a), lines 28 and 29, to delete the words “in the opinion of those authorities,” and to substitute therefor the words “those authorities certify in writing that for stated reasons they are of opinion that.”

I do not think there is any necessity to say much in connection with this amendment. I expect the Minister will accept it. The same argument applies in the case of amendment Number 11, which the Minister has already agreed to.

Mr. O'HIGGINS: For the same reasons as those which I stated in connection with the previous amendment, I propose to accept this amendment, and on the same condition. I do not think there is anything in the amendment which would imply that this certificate or written statement should be served on a prisoner. We do not propose to do that, but if what is intended is to secure that

there shall be confidential departmental records, I think it is reasonable.

Amendment agreed to.

Mr. NAGLE: I beg to move the following amendment:—

In Sub-Section (1) (b), lines 31 and 32, to delete the words “in the opinion of such Minister,” and to substitute therefor the words “such Minister certifies in writing that for stated reasons he is of opinion that.”

I think it is similar to the last two that were accepted.

Mr. O'HIGGINS: I accept the amendment.

Amendment agreed to.

Mr. DAY: I beg to move: “To delete Sub-section (2).” According to this sub-section, the civil authorities, in my opinion, are subordinate to the military authorities, and I do not think that is a desirable thing. Also, according to the sub-section, while it gives the Executive Minister power to keep a prisoner in custody, it does not give him power to release him; that power is vested in the Minister for Defence. For that reason I move the deletion of the sub-section.

Mr. O'HIGGINS: The Deputy should note that Section 3 deals specifically with the people who are now in the custody of the military authorities; it deals with people at present in military custody. It is natural that the Minister for Defence, who has the primary responsibility for the military situation in the country, should be consulted before prisoners who were arrested on grounds of military necessity are released. I am not particularly set upon keeping in that section if Deputies are keen on getting it out, because, as a matter of practice, prisoners will not be released without consultation with the Minister for Defence. Whether we say it here in the Bill or not, it does not make very much difference. If the Deputy insists, we are prepared to give way on that and to take out the sub-section.

Mr. FITZGIBBON: I think that will be all covered in the definition the Minister promised to insert in the Act of “military authorities.” Under the sub-section we have just passed persons may be detained in custody under this Act by the

military authorities if in their opinion they ought to be so kept. I can scarcely conceive any definition of the words "military authorities" that would not necessarily include the Minister for Defence. I think the power of detention is not really lessened by the acceptance of this amendment, and it prevents the appearance of setting up one Minister to overrule the order made by another.

CATHAL O'SHANNON: I think the Minister, in view of his own and Deputy FitzGibbon's arguments, should accept the amendment and delete the paragraph. There is an implication in the paragraph as it stands that the civil Minister is really subordinate to the military Minister. That is a position of affairs I do not think the Dáil would consider desirable. It is a kind of thing we all want to get away from. The whole basis of government by Executive Council, or anything like that, is rather in the direction that there should be unity, and this paragraph suggests that there could be possible disunity and subordination of the civil to the military side of the Executive Council. I hope the Minister accepts the amendment.

Mr. O'HIGGINS: The amendment is accepted.

Amendment agreed to.

CATHAL O'SHANNON: I desire to move the following amendment:—

In Sub-section (3), line 41, to add at the end the words "or until an Appeal Council, upon review of his case, in manner provided by this Act, reduces or remits the sentence imposed by the tribunal."

As Deputies are all aware, the next section provides for the setting up of Appeal Councils. I do not propose to discuss these things just now until I come to that section. In passing I wish to say we do not think they are quite satisfactory as provided for in the Bill. The section as it stands deals with persons or prisoners who have already been dealt with and sentenced by military tribunals. Sentences that are imposed upon them are now subject to review. The intention of my amendment is to give to those prisoners a chance of having their cases, if not exactly re-heard, at least reviewed. Now, we may have very different opinions about the conduct and the quality of the military; but, that

apart, we all know that these tribunals—military committees as they were called here some months ago—have been sitting in secret. They have operated in a period of great strain and of great stress, in a period when they themselves and the other military with whom they were associated were subject daily and nightly to armed attacks by the Irregulars. It will be more than human, and even Ministers will not claim that, taking them on the whole, the military were more than human. It would be more than human to expect that in all cases of prisoners that came before them they would be uninfluenced by the circumstances of the time. I do not want to make an attack on their integrity or anything like that, but it would be too much to expect that they would be uninfluenced in some cases, perhaps, by the circumstances of the prisoners who came before them. They would be, perhaps, influenced by the previous knowledge of the character and activities of the prisoners. In all these circumstances it would be too much to expect, I think, that they would give anything approaching the consideration or the discriminating judgment that any court of a legal or lawyer kind or even an Appeal Court such as seems to be contemplated in this Bill under another section, would give. I suggest that the prisoners who are being sentenced by these Courts ought to have some opportunity of having their cases reviewed. They may be, and some of them undoubtedly are, amongst the worst criminals that we have ever been cursed with in this country. In every country, this country included, apart from crimes arising out of such a condition of affairs such as has prevailed here for the last fifteen months, the very worst sort of crimes and of criminals accused of the most heinous offences which our imagination can conceive, have an opportunity in ordinary law of appealing from the decision of the lower Courts that have power to convict and sentence them, to higher or other Courts. It would not be too much to ask that the opportunities that have been given, and are still in many cases given, under the ordinary law, to ordinary criminals, no matter how bad or black their records, should be given to these prisoners, no matter how bad their records. None of us are infallible. None of the military courts that have been set up are infallible. Ministers do not

[Cathal O'Shannon.]

even claim that their various Intelligence Sections have been infallible, because they admit, and it is likely enough, that there are a number of prisoners detained at present who perhaps ought not to have been detained. It is not unlikely that there are prisoners at present undergoing sentences who ought not to be under sentence, and whose sentences ought not to be of such a lengthy duration as those originally imposed. There has not been, outside some sections of the Dáil and the Executive Council, in the country as a whole a great deal of confidence in secret tribunals and secret courts. There has been a good deal of distrust, and there has always very properly been a good deal of distrust of secret courts. Now we have an opportunity of rather remedying that state of affairs. Therefore I would ask the Dáil to adopt this amendment, again as one of those things, little enough in its way, that would help us to some extent—to bring us back, if you like, by easy stages—to the ordinary and normal course of law. I think that the Executive Council would gain in public confidence if it took this step and decided that there should be some review of these cases. I suggest that, and I propose the amendment in order to better the Bill and to take out of it one of its bad features. On principle, I object to the Bill all through. But I would be prepared to endeavour to improve it, and I think it would be a distinct improvement, and I ask the Dáil to accept it.

Mr. O'HIGGINS: I agree with much of what Deputy O'Shannon has said with regard to the advisability of reviewing the cases that have been heard and the sentences that have been passed by the Military Courts. In point of fact, we do propose to have such a review. We do propose to establish such a review in the future, but not under this Bill, and not by these Appeal Councils established under this Bill. Before the elections an Indemnity Bill will be introduced. It is customary in passing out from a condition of war to pass a Bill Indemnifying Military Officers and other such persons who, in the course of operations, and who, in the course of the conduct of the war, have technically infringed the ordinary normal law of the country.

Now, when we bring that Bill to the Dáil we will provide, within its terms,

for Civil machinery to pass in review the cases that have been dealt with by the military courts, with powers to reduce the sentences, and so on, if they think it advisable to reduce the sentences; but we do not propose to establish such machinery under this Bill; and to give the Appeal Councils which it is proposed to set up under this Bill any jurisdiction in that matter, would be to entirely alter their character. They will not be Courts or Tribunals in the ordinary acceptance of these words. They will be Departmental Committees to advise the Minister. Their proceedings will not be public, and will not partake, in any way, of the nature of a trial. They will be small Committees, sitting privately, to hear from any prisoner, who wishes to state it, the cause why he should not be further detained. They will have in their possession a summary, at any rate, of the reasons which convinced the Executive that it was advisable to detain the particular prisoner, and they will hear from that prisoner his side of the case, and why he considers he ought not to have been suspected of committing any of the offences, or of assisting in committing any of the offences set out in the Schedule. But it cannot be too strongly stressed that the proposal is not to establish Courts for the trial of those persons, and still less to establish Courts for the trial of Executive Ministers. These Appeal Councils will be confidential advisory departmental committees. I do go a long way with Deputy O'Shannon in his remarks as to the advisability of passing in review sentences passed by military courts in times of stress and heat, and I give that undertaking that in later legislation which we will bring before this Dáil there will be machinery to meet that end.

Mr. GAVAN DUFFY: I have no enthusiasm for this amendment, because this particular section is one which I do not think any change of words could make acceptable, and because I entertain the hope that the Executive themselves, before this Bill is done with, will come round to the view that this particular section ought not to be pressed in the interests of their good name, as well as in the interests of the repute of the Dáil, and I will tell the House why. The Minister told us, upon another amendment, that the Executive enter-

tained no vindictive feelings. Obviously the Executive should entertain no vindictive feelings, but it is impossible for a section of this kind to wear any other aspect than an aspect of being vindictive. I think it is absolutely unprecedented to prescribe by law that a prisoner shall not get out until his sentence is completed. If there is a precedent for it I should like to hear it. It ought to be unprecedented, because circumstances sometimes come to light that alter the facts as presented originally to the tribunal that tried the case, and it is wrong for the Dáil, and wrong for the Executive, to debar itself from dealing again, as it ought to deal, with a case, the aspect of which may be completely changed later on. How much more is that the case when we are dealing with people tried in secret by military and non-judicial courts. I remember, a short while ago, asking the Minister for Defence for a return of persons convicted by Military Courts within a certain period in the city and county of Dublin, and he said it was not in the public interest to answer that question; and the fact is that the Dáil has no information as to how many persons were convicted by military courts nor as to the offence, nor, indeed, as to the manner of their trial.

The Minister said just now that these sentences were to be reviewed. If that be the settled intention of the Executive, is there anything to be gained from the Ministerial point of view in stating in an Act of Parliament that you are going to keep in prison people tried by military Courts until they have completed their sentence. Is there anything to be gained from the Executive point of view by keeping this section in the Bill at all? All these trials, we are told, are to be reviewed under another Act of Parliament, and therefore this section does not mean what it says. This section will be repealed, and in respect to a matter which is going to be repealed by subsequent legislation we are asked to pass this unprecedented section—a section which is bound to have the air of being vindictive, and a section which incidentally, I suggest, is utterly unconstitutional, because its effect is to validate trials which were not constitutional, and of making into crimes offences which were not technically crimes when committed, such as having a pistol without a permit.

We do not know exactly what people were sentenced for, but there must be many sentences for offences which, when the people were sentenced by the military courts for them, were not crimes at all in the ordinary sense of the word. This Dáil is not permitted to legislate retrospectively to make things crimes which were not crimes at the time they were committed. But the effect of this section is to validate everything done by the military Courts, and that at a time when the Minister acknowledges that some review is necessary, and undertakes that he will make such review. I hope, before this Bill goes further, this particular section, which is a very serious blot upon it from the point of view even of the most zealous Free Stater, will be reconsidered. It effects nothing desirable. It effects nothing that will be of much use to the Ministry if they are going to bring in a Bill to review sentences, and it is putting upon the Statute Book a thing which should not be put on any Statute Book, that sentences—in these cases not imposed by legal tribunals upon persons who committed offences—cannot hereafter be reduced. That is a wrong principle.

Even in English law there is always the prerogative of pardon, and it is right the Executive should retain power to release prisoners when it is proper to release them, even after they are sentenced with every proper formality according to the ordinary law. When the Minister himself tells us that he is not going to ask the Dáil or the country to accept the military sentences as being perfect, without review, passed as they were in a time of war and in a time of trouble, surely it is not necessary, and certainly not desirable, to insert in this Bill a section which effects nothing worth effecting, and which puts into our legislation a very unfortunate blot that one would be sorry to see established in Irish law at this very early stage of the Free State's proceedings. In addition, this section indirectly, not directly, purports to validate what has been done by military courts before anybody outside of the Executive has had an opportunity of knowing what these Courts did. The Dáil in the dark, and necessarily in the dark, will be asked to say that sentences passed in very troubled times by these military Courts are here and now going to be ratified and must be completed, although the Minister himself says "We do not mean that";

[Mr. Gavan Duffy.]

but that is what the Dáil will be asked. I hope, on reconsideration, that this matter will not be forced into the Bill.

CATHAL O'SHANNON: The Deputy has raised several important points which, I think, will require considerable discussion, but I do not propose to discuss all of them, or in fact many of them, on this particular amendment. I should rather like to confine myself strictly to the amendments, though I do not think that the discussion has been out of order, or anything like that. The discussion, I am glad to say, has brought out a statement from the Minister promising an Indemnity Bill. I think that that will give a certain amount of satisfaction to the country. At the same time, I do not think he has made the case that I should like to have seen put up, or that even his promise of an Indemnity Bill meets that case. I put it to him that the section, or the sub-section, as it stands practically legalises the sentences that have already been enforced. Now, we have not had much experience of Indemnity Acts in Ireland, and I am doubtful whether an Indemnity Act can cover the case of sentences. It could, and usually does, cover cases of persons and actions. I do not know whether it is intended that the Indemnity Act should legalise things which, perhaps, at the time of their doing were not strictly legal, but its intention and its provisions will, of course, protect the officers of the State, who had to undertake certain actions, against the ordinary legal penalties and risks that would commonly follow under the ordinary law. I think I should want to see and examine closely the provisions of the Indemnity Bill before they would satisfy me. At the same time, the Minister's promise of an Indemnity Bill is welcome. There is another point, and that is the question of time. The Minister says that it is intended to introduce the Indemnity Bill before the elections, and presumably to have it carried and put into effect before the elections. The Minister, perhaps, knows, but none of the rest of us know, when that may be. We have no idea when to expect the Bill. It may be within the next five months, but we have no idea when this particular Bill will be introduced.

Mr. O'HIGGINS: It must be before the 5th of January of next year.

CATHAL O'SHANNON: That is what I was saying, that it is likely to be introduced within the next five months. This Bill before us now is coming into operation and into effect as soon as the Ministry can get it through the two Chambers of the Oireachtas. I think it is just as urgent a matter that this review, which the Minister in principle has agreed to, should be made as that any Section of this Act should be carried into effect. You want this Act immediately. I suggest that if there are to be reviews, that the review of these sentences are urgent. I said, when I was speaking before, that the amendment had some relation to the Appeal Councils mentioned elsewhere in the Act. The Minister has thrown some light on the character, if not exactly on the constitution of these Appeal Councils. It would undoubtedly be more satisfactory if the regular Civil Courts had power to deal with these review cases. I regretted to hear the Minister say that the Appeal Councils will be merely Departmental, confidential and advisory committees. I should prefer if their scope was much wider. That, however, is a matter for argument when the Section dealing with them comes on for discussion. I would put it to the Minister that there is a doubt as to whether the Indemnity Bill can really declare legal these sentences, or vary them, or anything like that. I would ask the Minister, and also the Dáil, not to legalise these sentences by letting the Sub-Section stand as it is. I wish he could find a way to extend the scope and powers of the Appeal Councils so that they could really do the work now, or as soon as may be convenient before the elections. I submit to the Dáil that the question of time in this matter is of great importance, at least of very considerable importance for the reasons I have mentioned, because the revision of these sentences, if it came now, would show a desire of a return to normal legal processes, and would have a big effect on the country and on the people in the country, even on some of the opponents of this State. It would show that while we are not exactly out of the wood yet, that there is a preparedness to meet the coming out of the wood. Therefore, I submit that the question of time is important, and that the sooner this is

done the better. I would like if that could be provided for in this Bill, and not wait until we get in our hands this other Bill. The promise that an Indemnity Bill is coming is very important indeed.

Mr. FITZGIBBON: I would suggest that the offer of the Minister might be accepted as sufficient ground for withdrawing this amendment. An Indemnity Bill properly speaking, of course, has nothing whatever to do with sentences that have been passed. It is to indemnify people who have acted in a manner which was technically illegal at the time. But I understood the Minister to say that in that Indemnity Bill, besides indemnifying those servants of the State who may have been guilty of technical illegalities, he proposes to set up a tribunal—that is a matter quite independent of the Indemnity Bill—to revise sentences that have been passed by military Courts. I was very glad indeed to hear that assurance. The Appeal Councils are dealing with a wholly different matter, and it is, in my humble judgment, very important that they should be able to get on with their real work, which is releasing untried prisoners, rather than have their time taken up by trying over again cases that have already been tried. If you are going to retry cases, with all the witnesses, and go into the whole matter over again, that is necessarily a long job. If the Appeal Councils have their time occupied with retrying already convicted prisoners, they will not be able to get to what seems to me their real duty—that is, releasing prisoners untried and under detention, against whom there may not possibly be sufficient ground for the detention that has been imposed upon them. Therefore, I think that, in the interests of the persons who are really most affected of all—the innocent people who would be let out, we will assume, by the Appeal Councils—the Appeal Councils should not be burdened with the task of retrying men who have been already convicted. It seems to me that the definite undertaking given by the Minister that a proper legal tribunal will be set up to investigate sentences that have been imposed ought to be sufficient, and that we ought to let these Appeal Councils go free to deal with the untried prisoners who have a right under this Bill to appeal to them for immediate release.

Mr. JOHNSON: The Dáil appreciates the promise that the Minister has made regarding the setting up of a tribunal whose duties will be to review the sentences that have been imposed by military tribunals. I think we all realise the force of the argument of Deputy Fitzgibbon that the time and attention of the proposed Appeal Councils should be devoted to the consideration of the cases of untried prisoners; but there is equal force, I think, in the contention that the cases of the prisoners sentenced by military tribunals should have early reconsideration and early review. The purpose of the amendment is to endeavour to ensure that there should be review of those sentences at an early date. I think it will be generally recognised that amongst those who have been tried and sentenced are a number—perhaps many—who have on what they considered to have been conscientious grounds—political consciences have been at work—refused to plead. The evidence appeared to be strongly against them, and they were sentenced. It is known to Deputies that, though many of the prisoners had the right under the Regulations to call for legal defence, they did not utilise that right. They did not realise they had such a right, and failed to take advantage of the legal defence which was available. There is the further fact that there was no publicity, and there may have been injustices committed. There may have been unreasonable sentences imposed of which the Dáil or the public knows nothing. We would urge that within this Bill such a tribunal as the Minister foreshadows, as intended to be embodied in an Indemnity Bill, might well be set up—perhaps not the Appeal Council, but some other. I suggest that even the Appeal Councils might quite reasonably be asked to look over the cases of prisoners who have been sentenced—I do not think there are very many—not to retry, but to act somewhat as a Grand Jury might, and at least to review, and see if there is, on the face of it, a case for immediate revision. If the Minister is not prepared to establish within this Bill a tribunal to retry or review the cases that have been before the military Courts, it may not be too much to ask that the Appeal Councils might be empowered to go over the evidence that has already been written down in regard to specific cases, and see whe-

[Mr. FitzGibbon.]
ther, in their opinion, any such cases should be immediately retried. That, I think, would reasonably come within the scope of the suggested Appeal Councils. This may be considered going a little too fast, but it does follow upon the amendment and the discussion. I would ask the Minister if he can see his way to meet

the demand submitted in the amendment in such a way as to ensure that there shall be at an early date some opportunity for a review of the sentences, at least in these cases which might obviously require speedy retrial.

Amendment put.

The Dáil divided:—Tá, 11; Níl, 42.

Tá.

Tomás de Nogla.
Riobárd Ó Deaghaidh.
Tomás Mac Foin.
Tomás Ó Conaill.
Aodh Ó Cúlacháin.
Seamus Éabhróid.

Liam Ó Daimhín.
Seán Ó Laidhín.
Cathal Ó Seanáin.
Domhnall Ó Muirgheasa.
Domhnall Ó Ceallacháin.

Níl.

Liam T. Mac Cosgair.
Donchadh Ó Guaire.
Gearóid Ó Suileabháin.
Seán Ó Maolruaidh.
Micheál Ó hAonghusa.
Domhnall Ó Mocháin.
Seamus Breathnach.
Pádraig Mag Ualghairg.
Peadar Mac a' Bháird.
Seoirse Ghabháin Uí Dhubhthaigh.
Deasmhuhain Mac Gearailt.
Micheál de Duram.
Seán Mac Garaidh.
Pilib Mac Cosgair.
Micheál de Staineas.
Domhnall Mac Cárthaigh.
Maolmhuire Mac Eochadha.
Sir Seamus Craig.
Gearóid Mac Giobúin.
Liam Thrift.
Eoin Mac Néill.

Liam Mag Aonghusa.
Pádraig Ó hÓgáin.
Seosamh Ó Faoileacháin.
Seoirse Mac Niccail.
Piaras Béaslaí.
Fionán Ó Loingsigh.
Seamus Ó Cruadhlaoich.
Cristóir Ó Broin.
Caoimhghin Ó hUigin.
Proinsias Bulfin.
Seamus Ó Dóláin.
Aindriú Ó Láinhin.
Proinsias Mag Aonghusa.
Éamon Ó Dúgáin.
Peadar Ó hAodha.
Seamus Ó Murthadha.
Seosamh Mac Giolla Bhrighde.
Liam Mac Sioghaird.
Tomás Ó Domhnaill.
Earnán de Blaghd.
Uinsann de Faoite.

Amendment declared lost.

Mr. GAVAN DUFFY: I take it that Section 3 is now before the Dáil, and perhaps I shall not be accused of obstruction if I say one word—

AN LEAS-CHEANN COMHAIRLE:
A motion has to be moved that the Section, as amended, stand part of the Bill.

Mr. O'HIGGINS: I move: "That the Section, as amended, stand part of the Bill." In doing so I want to state, with regard to amendments 13 and 14, which I accepted, that it will be necessary for me at a future stage in some way to alter or modify the words as they stand. I am informed that where it is set out in a Bill that reasons must be stated that it is then open to the Court—in fact it is the duty of the Court if called

upon—to examine those reasons and see if they are good and sufficient. Now we could not create a situation in which the Courts could be asked to survey the reasons for a particular person's internment and to pronounce on those reasons. The reason will, in many cases, be partial and incomplete. Very often the source of evidence with regard to a person is such that in times like these to disclose it, or give any information that would lead to its disclosure, would probably be endangering life. In a situation like that we cannot leave it open to the Courts to review the reasons of the Executive for interning a particular individual and to pronounce on these reasons as to whether they are good or sufficient. I want to make this perfectly clear, that it is not an objec-

tion to having a confidential departmental record setting out in general terms the reasons for the person's internment, but I must insert words, or in some way qualify these that I have inserted, so that it will not be a matter that can be brought before the Courts for a verdict, whether these reasons are good enough to justify the detention of a person. I thought it right to say that before the amendment would be through, for, as a general thing, when an amendment is accepted in that way you do not like to be told afterwards that you ran away from it. Deputy Johnson made it clear that he did not want anything served on the prisoner. I was, I think, emphatic on that: that we were not going to charge a prisoner or give him a statement as to the reasons for his detention. Simply as a corollary to that, we do not wish to place ourselves in this position—that the prisoner could apply to the Courts to examine the reasons for his detention and to say whether they were sufficient. I will have to take advice on the matter and go into it closely, but I give notice that at some future stage of the Bill I will qualify this.

Mr. JOHNSON: I think the Minister will find on his examination that even the safeguard that he has agreed to insert is not going to impose any very grave risk or limit his power to any appreciable degree. The utmost, I think, the amendment, if accepted, will accomplish—I hope it will accomplish more, but I have not much expectation—will be to ensure in this case, as in the others, that the person responsible for stating the reasons will have to think out these reasons. He will have to write something down which imposes on him a certain responsibility, and perhaps before the Appeal Court the records may be called for and the reasons then will be available. It will not be possible, for the detention of persons merely by inadvertence, for new reasons to be given at the time the Appeal Court is going to enquire into the case. I do not think that the Minister need be very anxious that he is giving away very much. On Section 6 I would ask the Minister to give some consideration to the point raised by Deputy Gavan Duffy. It was quite new to me, but I think it is important. It refers to Sub-section (3), where the Oireachtas is asked to state in an Act

of Parliament that a person who is being sentenced shall continue to serve such sentence so long as it is unexpired. This may be a matter of phrasology, but as it stands it seems to me almost to limit the prerogative of mercy. It almost limits the power of the Minister to advise that a sentence should be brought to a conclusion.

Mr. O'HIGGINS: Would it meet the Deputy if I were to add there, "until such time as reviewed by a competent tribunal"?

Mr. JOHNSON: I think that that would go all the way to meet that point.

AN LEAS-CHEANN COMHAIRLE: Do I understand that the Minister for Home Affairs will deal with that matter on the Report Stage?

Mr. O'HIGGINS: Yes, I undertake to do so.

Mr. GAVAN DUFFY: This Section raises a very serious and difficult question—namely, what is a Government in the position of the present Government to do with its prisoners after a civil war? I am the first to admit that it is a difficult question. I want, without any special pleading and without rhetoric, to put plainly before the Dáil what, I was informed, was done in similar circumstances in South Africa. The parallel is extraordinarily close. Dutchmen fighting Dutchmen there. Here Irishmen fighting against Irishmen.

Mr. O'HIGGINS: No; burning and robbing Irishmen.

Mr. GAVAN DUFFY: The parallel is extraordinarily close. There may be a difference in the length and duration of the rebellion in one place, and a difference as to the actual number of prisoners taken. I think the South African rebellion lasted two or three months. There were not so many prisoners as here, but there was a large quantity of prisoners. There was, of course, extremely strong bitterness, as there always is in time of civil war, between the two sides. General Botha and General Smuts were the people at the head of the military and civil sides. Would you believe that when the war was over they did not intern anyone on suspicion? I am giving the Dáil the facts as given to me by a gentleman

[Mr. Gavan Duffy.]

well known to a good many members, and who served under both of them, and whose recollection I therefore accept as being of a thing with which he was personally conversant. One man, and one man only, was executed, and he was executed for mutiny by the military. Nobody was kept in internment on suspicion. General Botha took quite a different method, and I ask the Dáil to remember that his problem was a much more serious one than our problem, because the war was at its height. This was at the beginning of 1915; the rebellion had occurred in 1914, and if the rebels had succeeded, South Africa was lost to the British Empire. Therefore he was dealing with a very serious problem, and everybody knows that to-day there has been a very general and sincere reconciliation in South Africa between those who were formerly fighting one another. Smuts and Botha established special tribunals to try those whom they had taken in arms, and those tribunals were not manned by military men. Those tribunals were manned by people of legal experience and qualifications—people accustomed to weighing evidence and people trained to giving their decisions without any regard to party feeling or passion. What is, perhaps, the more remarkable is the nature of the sentences that were imposed. The trials, of course, were very numerous. Sentences were imposed of three months, six months, and nine months' duration. I am not sure if in any case a sentence went to eighteen months. There were in all cases very short sentences. I know also that the persons sentenced were released very shortly afterwards without completing their sentence. I think that General De Wet himself came out of the prison to which he had been sentenced in less than nine months. I mention those matters because I think it is well, when the Dáil is asked to pass a very extraordinary measure of this kind, that it should reflect first, and ask itself whether it is doing the right thing. Botha's system may have been right or wrong, but at all events he had a definite system with a definite end to it. He accomplished his purpose. I will not paint the lily by commenting, but I ask the Dáil to look upon that picture and the picture presented in this Bill.

CATHAL O'SHANNON: The Minister says it was not a case of fighting here in Ireland but a case of burning and robbing. It may or may not be that. Proportionately there was more burning and robbing in Ireland than there was in South Africa or in any other country in which there was civil war. These are accompaniments of civil war, and there was burning and robbing very extensively in the United States, South Africa and other places. One of the very common charges against De Wet was indiscriminate looting, raiding and burning. I do not know that he conducted himself very much better than some of the leaders of the Irregulars in the South. You do not get over the point by saying it was burning and robbing from fellow citizens. As a matter of fact, I do not think that comes exactly into this Section at all. The Section gives power for the further detention of people who have been sentenced or people who are presently interned. Some of those no doubt are interned on suspicion of having been connected with burning and robbing, but a great many of them have not. Nobody but the Ministry can tell us whether a majority or not have been convicted or held in detention because they are suspected of having taken part in the acts mentioned in Part I. of the Schedule, not, as the Minister would like us to deduce, for taking part in the two offences for which, in my opinion, a particularly brutal punishment is provided in the Bill. No parallels are absolutely complete. We do not get such things, but at least it is to be noted that in South Africa, the United States, and the other places those things were wound up by the Courts. I am glad the Minister has agreed to insert the words "in any stage until reviewed by a competent Court" in one of the Sections. That goes a considerable distance, and if that mind were revealed right throughout the Section it would be more satisfactory still. Even if I may mention it, in one of the most serious of the cases, in America the conspirators who were tried by military commission for the assassination of President Lincoln and the attempted assassination of others, part of the charges against them were burning and robbing, not merely of assassination. So the Minister's argument in that does

not come in. I think it well worth the while of the Dáil to consider that Courts are the proper way of disposing of these things, and for the Dáil to remember that not only will there be an Indemnity Act but also an Amnesty Act, as there

have been in all such controversies in other countries.

Motion made and question put: "That Section 3, as amended, stand part of the Bill."

The Dáil divided:—Tá, 35; Níl, 12.

Tá.

Liam T. Mac Cosgair.
Gearóid Ó Suileabháin.
Micheál Ó hAonghusa.
Domhnall Ó Mocháin.
Seamus Breathnach.
Pádraig Mag Ualghair.
Peadar Mac a' Bháird.
Deasmhumhain Mac Gearailt.
Micheál de Duram.
Pilib Mac Cosgair.
Domhnall Mac Carthaigh.
Sir Seamus Craig.
Gearóid Mac Giobúin.
Liam Thrift.
Eoin Mac Néill.
Liam Mag Aonghusa.
Seosamh Ó Faioleacháin.
Seoirse Mac Niocaill.

Piarras Béaslaí.
Fionán Ó Loingsigh.
Seamus Ó Cruadhlaioch.
Cristóir Ó Broin.
Caoimhghin Ó hUigín.
Proinsias Bulfin.
Seamus Ó Dólaín.
Aindriú Ó Láimhín.
Proinsias Mag Aonghusa.
Eamon Ó Dúgáin.
Peadar Ó hAodha.
Seamus Ó Murchadha.
Seosamh Mac Giolla Bhrighde.
Liam Mac Sioghaird.
Tomás Ó Domhnaill.
Earnán de Blaghd.
Uinseann de Faioite.

Níl.

Tomás de Nóglá.
Riobárd Ó Deaghaidh.
Seoirse Ghabháin Uí Dhubhthaigh.
Tomás Mac Eoin.
Tomás Ó Conaill.
Aodh Ó Cúlacháin.

Seamus Éabhróid.
Liam Ó Daimhín.
Seán Ó Laidhín.
Cathal Ó Seanáin.
Domhnall Ó Muirgheasa.
Domhnall Ó Ceallacháin.

Motion declared carried.

SECTION 4.

(1) As soon as may be after the passing of this Act there shall be established by an Executive Minister one or more Appeal Councils, consisting of not less than three members, of whom one shall be a person certified by the Attorney-General to have legal knowledge and experience.

(2) Any person detained in custody under this Act, whether under an order of an Executive Minister or by the military authorities, may in the prescribed manner request that an enquiry into the matter of his detention be made by an Appeal Council, and such Council shall thereupon with all convenient speed inquire in the prescribed manner into the case of such person, and shall report in the prescribed form to such Executive Minister the result of such inquiry.

(3) Whenever an Appeal Council has inquired into and reported on the case of any person under this section, and either

(a) such Council has reported that such person has failed to show that there is no reasonable ground for sus-

pecting him of having committed or been engaged or concerned in the commission of any of the offences mentioned in the Schedule to this Act; or

(b) an Executive Minister, having considered the report of such Council, is of opinion that the public safety would be endangered by such person being set at liberty;

such person may be detained in custody in any place within or outside the jurisdiction of Saorstát Éireann during such period as an Executive Minister considers that the public safety would be endangered by such person being set at liberty.

(4) No person serving a sentence of imprisonment or penal servitude imposed by a tribunal established by the military authorities shall be entitled to appeal to an Appeal Council under this section.

(5) An Executive Minister shall make regulations for the execution by Appeal Councils of the functions imposed on them by this section, and the word "prescribed" where used in this section means prescribed by such regulations.

Amendment by Mr. GAVAN DUFFY:
 "To insert before Section 4 a new section as follows:—

" 'For every hundred persons detained without trial in any one place of detention, under this Act, at least one qualified medical officer shall be appointed, and whenever any such medical officer shall report to the Governor or other the person in chief control of a place of detention that a person there detained is seriously ill, it shall be the duty of such Governor or other the person in chief control immediately to notify by telegram the wife, husband, or nearest relative of such detained person, and to admit such wife, husband, or nearest relative, without further authority or formality, to visit such detained person, and likewise forthwith to admit, without further authority or formality, any medical man of recognised professional standing whom such wife, husband, or relative may call in as a specialist or consultant.' "

Mr. GAVAN DUFFY: There is a misprint in the first line of the amendment. The word "hundred" ought to read "five hundred." I think the fault may be mine, because, although the "hundred" is corrected in my carbon copy to "five hundred," it may not have been corrected in the copy I sent in. The proposal, therefore, is that for every five hundred persons interned there should be a medical officer, and that when anyone in the internment camp is seriously ill the medical officer should inform the Governor, and that it shall be the duty of the Governor to telegraph to the wife or nearest relative. It is also proposed to admit the wife or nearest relative, and to admit any specialist or consultant who is a recognised medical man that the wife or nearest relative desires to have admitted. I hope that Deputy Sir James Craig, to whom I showed this amendment in draft at the same time as the amendment concerning the appointment of a Medical Committee, will see his way to give me at least some support on this amendment, even if it does not commend itself to the Executive authority. The matter arises in this way. I have particulars here which I communicated some time ago to the Minister for Defence in connection with the death of Dr. Ferran. I have not yet got the Minister's reply, but he did deal briefly with the matter in

answer to a question yesterday or the day before. The circumstances of that case are very painful, and I want to guard against a recurrence of anything of the kind. The information I have is that word first came from a private source that Dr. Ferran was very seriously ill on Friday, the 8th June.

AN LEAS-CHEANN COMHAIRLE:

The Deputy cannot refer to the case of any individual prisoner under this. We are not dealing with the case of Dr. Ferran at present.

Mr. GAVAN DUFFY: If I may say so, I quite agree, sir; but surely I would be in order if I quote Dr. Ferran's case for the purpose of showing that an amendment such as this is necessary? At the present time it may be supposed that specialists and consultants are allowed in when a prisoner is dying. It may be supposed that the wife can go in when a prisoner is dying as a matter of course. I am referring to these unfortunate circumstances in order to show that it has not been so, and that is the only purpose for which I refer to it. Dr. Ferran died on the night of Saturday-Sunday, at 2 a.m., and the first intimation that he was ill came out privately at 3.30 the day before. His wife was not admitted until after 8.30 on the following day—the day that he died. Immediately this private word came out, a request for permission to see the prisoner and for the admission of a specialist and a consultant was made.

AN LEAS-CHEANN COMHAIRLE:

If the Deputy wants to refer to Dr. Ferran's case particularly, he will get plenty of opportunities for doing it, but he cannot do it on this section.

Mr. GAVAN DUFFY: To what extent may I refer to it?

AN LEAS-CHEANN COMHAIRLE:

You can raise the case of the death of Dr. Ferran, and you will get any opportunity you wish to do so, but you cannot deal with the case of Dr. Ferran in full. It is not a passing reference that you are making to it; you are going into the case in full.

CATHAL O'SHANNON: On a point of order, might I ask is it not in order for a Deputy to refer to any case in illustration of the argument he is using, as I did

in the case of certain people yesterday evening?

Mr. GAVAN DUFFY: I cannot consent to go on with this amendment if I am precluded from stating publicly the reasons which make such an amendment necessary. It is not a case of using this amendment for the purpose of recrimination. It is a question of using the facts which are within my knowledge to prevent a similar episode. If, sir, you rule that I cannot proceed to show the necessity for my amendment by what has actually occurred, some of it in the admission of the short answer made by the Minister for Defence the other day, it is useless for me to attempt to convince the Dáil that the amendment is necessary. I would respectfully submit that it would be an unheard of thing to prevent a Deputy from stating reasons drawn from actual facts, from actual occurrences, which prompt him to put before the Dáil a certain amendment. If you rule to the contrary, I cannot proceed.

Mr. DAVIN: The Minister for Home Affairs asked us yesterday, in discussing this Bill, to confine ourselves to the facts within our knowledge. When I tried to do so to-day I was told I was slandering some people outside.

Mr. JOHNSON: I support the view taken by Deputy Gavan Duffy and Deputy O'Shannon on the point of order made, provided that the use of any name is merely to make a specific illustration of an argument in support of the motion. I think it is perfectly in order, provided that the Deputy is not making use of that illustration for some ulterior motive. If the Deputy had used the words, say, "a prisoner," I submit it would have been in order without question. Inasmuch as the Deputy referred to Doctor Ferran, it would not make the procedure out of order.

AN LEAS-CHEANN COMHAIRLE: I am ruling that the reference to Dr. Ferran is out of order. I think the Deputy is out of order in going into the merits or demerits of the case connected with the death of Dr. Ferran. If he wants the case debated, he has opportunities of doing so other than on this Section. I am not ruling that he is out of order in illustrating his case by mentioning Dr. Ferran's case, but in going into the case in full.

Mr. GAVAN DUFFY: If that is the objection, I undertake not to go into the case in full or anything like it. It is a very simple matter. I suggest and I press upon the Dáil that the amendment now before us is necessary in order to prevent the death of a prisoner, without an opportunity being given to the prisoner's wife to attend his dying bedside. I put it that it would be indefensible for a dying prisoner, or a dying prisoner's wife, to be refused the advantage of having such specialist or consultant, being a well-known professional man, as the prisoner or his wife might think proper to call in. I think it is also indefensible that where a prisoner is seriously ill that that fact should be ascertained privately and not publicly in the first instance. I think it is indefensible that conflicting statements should be made on the telephone from a prison as to whether or not a dying prisoner is seriously ill. I think no one can defend a case where the medical authority, in a camp like the Curragh, informs the relatives on the telephone that a prisoner is dying, and yet the prisoner's relatives are not admitted until 24 hours afterwards, when he is unconscious. That is the kind of thing I want to avoid, and if you are adopting this horrible expedient of interning thousands of people without trial, the least that an Executive may be expected to do is to make stringent rules to ensure that in a case of that kind proper humane treatment and justice will be given to the prisoner and his relatives. That is the very least that an Executive, in its own interests and in the interests of the country, ought to ensure.

It may be regulations have been made of which we know nothing. They ought to be published. I do not know of any such regulations, but I do know from what has actually occurred in the case which I have cited that it is essential to insist that the relatives of a dying man, or at least the nearest relative, shall have access. That has not been respected in at least one case. It may be due to want of co-ordination between different military authorities, but, whatever the cause, it ought to be removed, and every care should be taken that it shall not happen again. There should be also leave given to a specialist or consultant to visit a dying man. There was a case in which permission was refused to a specialist or

[Mr. Gavan Duffy.]

consultant who was asked to see a dying person. Can anybody justify a thing like that, particularly if a man has been ill a short time before and is known to be delicate? The object of this amendment, word it any way you like, is to secure that when a man is dying in internment, a man uncharged, it shall be the absolute duty of the Government to notify his nearest relative by telegram, and to admit that nearest relative at once. Is it not a shocking thing that a military authority at a camp like the Curragh should give leave to a wife or a relative to see a person who is dying, and that that leave should be cancelled as *ultra vires* by a higher authority in Dublin? That is the kind of thing that you have to fight against in any matter of this kind where you are interning people on suspicion without a proper code of rules. I put it to the Ministry that in their own interests and in the interests they represent they ought to lay down and publish a very definite code, showing they will be no parties to the recurrence of anything of the kind. It is bad enough that it should have occurred in one case, but at least let us have very definite assurance, incorporated in some such way as I suggest in the Bill, that both those grievances will be quite definitely removed, as to the access both of a nearest relative as soon as it is known a man is seriously ill, and of a specialist or consultant who is a well-known professional man.

Mr. O'HIGGINS: I do not propose to accept the amendment. I invite the Deputy's attention to Section 13 of the Bill. I submit that under that section regulations can be and will be made providing for the general health and comfort of the detained persons, and when one speaks of efficient management of this and that kind one naturally adverts to sanitation and the general health of the prisoners. Regulations can also be made dealing with cases of serious illness, but this amendment as it stands is unacceptable, and I think that the Deputy would be well advised to waive the matter until we arrive at Section 13. He can again raise the point then that he has now raised. If he does not wish to raise it again I can only assure him that when it comes to the making of regulations under Section 13 what he has said will receive all the consideration that it deserves.

Mr. GAVAN DUFFY: May I ask if the regulations will be made public?

Mr. O'HIGGINS: You may ask anything you like.

Mr. GAVAN DUFFY: Do I understand the regulations will be private and that the Dáil will never see them?

Mr. O'HIGGINS: You can raise that matter on Section 13.

Mr. GAVAN DUFFY: The Minister has asked me not to press this amendment on the ground that he is going to make regulations. He says he will consider what I said, but he does not say he will accept what I said. Apparently he is not prepared to say that we shall ever see the regulations.

Mr. O'HIGGINS: Raise the matter again when we come to Section 13.

Mr. GAVAN DUFFY: I must say it is very unsatisfactory.

CATHAL O'SHANNON: I think the Minister is treating this amendment in a spirit that the amendment does not deserve. I am reluctant to say very much, but it would seem in the face of things that he was dealing rather with the Deputy who proposed the amendment rather than with the amendment. That is not the spirit in which any Deputy in the Dáil should deal with any amendment, and particularly with this.

Mr. O'HIGGINS: The discussion on these regulations, which Section 13 deals with in detail, will more properly arise under that section.

CATHAL O'SHANNON: I am not dealing with Section 13 at all. I was about to deal with the amendment before the Dáil. I am quite sure that when we come to Section 13 that there will be plenty of discussion on the question of the regulations. In passing I would say that I cannot see that the one word "management" in a section that is providing for the efficient detention of the prisoners leaves or gives much scope for a proper and helpful discussion on the substance of the amendment before the Dáil, unless that detention will be construed wide enough as meaning the prevention of escape by death or something like that. The Minister at this stage is not prepared to consider the substance of the amendment. The arguments put forward in favour of the amendment will, I hope, be

considered by the Dáil, because I think they are worthy of consideration at this stage of the Bill. There is nothing, I think, very far-fetched in the amendment. It is naturally one of the first duties of an Executive authority to make proper medical arrangements for its places of detention and its jails.

Mr. O'HIGGINS: Hear, hear.

CATHAL O'SHANNON: The Minister agrees. The Minister will go further and say that that is already being done. But he has not been good enough, even in answer to this amendment, to tell us exactly what is being done in that respect. We know very little about prison regulations. It would be useful, to say the least of it, if he would detail and outline the arrangements that either are in force at present or that he contemplates putting in force to cover the matter raised in this amendment. If he thinks that one qualified Medical Officer for every 500 prisoners detained in these Internment Camps is either too many or too few; or if that is the number that is there at present he might let the Dáil know. I am not going to accuse him or accuse any Minister of having a particularly stoney heart, but he might let us know whether it is his opinion or the opinion of the Ministry, that Deputy Gavan Duffy is asking too much under present circumstances. He asks that the wife or husband or the nearest relative of the person likely to die in a detention camp should be admitted to that person, or that if, as in these cases, the relatives are very anxious that if only for the comfort of these, not so much as a reflection on the official medical attendance inside, that it would be well to have some properly qualified and some trustworthy Medical Attendant to go in and see that prisoner; the Minister might let us know whether that is too much to ask. But to turn and simply say "You may ask such a thing" and get no answer is not treating the subject with that importance that it really deserves. I support the amendment.

Mr. JOHNSON: I was hopeful that the Minister would have said, in reference to this amendment, that the circumstances which have resulted in certain suffering and death, and hurt to the friends of those who have died

having somewhat passed, there was no risk in the future of these incidents happening again, and that he would have met the amendment by a statement of some reassuring kind in regard to the availability of competent medical assistance, and some assurance too that when the prisoner was seriously ill that his relatives would be immediately advised and allowed access. That, as I read the amendment, is the object sought to be attained and to be made part of the Bill. I do not think that unless the Minister is prepared to amend in a mandatory way, Section 13, that it does meet the case required. It is desirable, I think, that detained persons should know that there is a medical officer available, and that in case of serious illness, that his friends will be informed; and it is fair, I think, to their relatives that they should know that they will of a surety be advised when any of their relatives interned are seriously ill. Every Deputy, I think, has had communications during the past month from people saying that they had no letters from their friends who are interned. They are distraught and wondering what is the matter, whether they are alive or dead, or what is the state of their health. If they had an assurance embodied in a Bill of this kind that such a prisoner, if seriously ill, will have the fact of his illness communicated to his relatives, there would be confidence at any rate that nothing was seriously wrong with the prisoners. That would be a distinct advantage, and I think it would be a humane provision to be embodied in a Bill of this kind. I think it would be proper to make regulations prescribing medical attendance and of the kind that is desired, and conveying information to relatives.

I think the Dáil would feel a great deal of satisfaction if they had the assurance of the Minister that that was the intention; that he would agree to it being put into the Bill, and not that the regulations that will be made will embody the intention of the amendment. One hopes that the reasons that have been given, in the past, for the overcrowding of prisons, and the extraordinary nature of the case, prevented certain things being done that the Minister would like to have been able to do, but in view of the easing of the situation, and the expectation of releases, the less overcrowding, some very positive assurance should be em-

[Mr. Johnson.]

bodied in the Bill that medical attention will be available for prisoners, and that where there is serious sickness the relatives will be informed. I think it is due to the Dáil to have assurances of that kind from the Minister. It would be a source of comfort and confidence if such a provision as this were actually embodied in the Bill. We may have the assurance of the Minister that such regulations will be made; that would be of great value; but from the point of view of giving confidence and comfort to those who fear for their friends who are interned, it is not too much to ask that if anything serious is the matter with the prisoner in his health they should be informed, I think it is due to the House that some assurance of the kind should be given, and if possible, embodied in the Bill.

Mr. FITZGIBBON: I do not think that this amendment as it stands could be reasonably accepted because I quite conceive that in certain cases almost the worst thing for a prisoner seriously ill might be for a number of people who if this amendment is passed, would have to be admitted in spite of any consideration of propriety or even of the welfare of the prisoner himself. I think it would not be wise to embody such an amendment in the Bill and make it mandatory. But I would like to add my voice for what it may be worth to what has fallen from Deputy O'Shannon and Deputy Johnson as to some assurance as to the nature of the regulations that are to be made.

An Ceann Comhairle at this stage resumed the chair.

Mr. FITZGIBBON: It does seem to me that it would be very hard to say that provision of medical attendance was fairly included within the 5 sub-heads of Section 13. They seem to me rather to deal with provision as to visitors and letters and the detention of prisoners. But notification to the relatives as to the state of health of a prisoner who is untried and in preventative detention seems to me, ought to be provided for by regulation in some shape or form. I feel it would be very difficult indeed to embody a mandatory provision in the Bill, and especially such a mandatory provision that on the mere

receipt of a telegram a wife, husband or other relative of a particular prisoner must be admitted, and that no one has a right to exclude them, when such a visit to a prisoner might be considered by his doctor to have a dangerous effect. As the amendment is drawn the relative would have a right to insist on being admitted although it might be to the actual detriment of the prisoner. For that reason I do not think that the amendment should be accepted in the form in which it is, but I should gladly hear an assurance from the Minister that he will amend Clause 13 so as to provide for some of the matters included in the amendment.

Sir JAMES CRAIG: As Deputy Gavan Duffy introduced my name I want to say a word or two, because I had no idea, when he spoke to me about the number of prisoners that could be attended by a medical officer, that it was intended for an amendment in this case. I could not possibly agree as to the first part of the amendment, and I could not possibly state the number of prisoners that should be attended by one medical officer. None of these men may be really ill at all. A medical officer might attend a thousand prisoners if there was no illness whereas if there was serious illness he could not attend more than 50 or 100, so that the Government must be left entire freedom as to the number of medical officers required. I feel in existing circumstances that there should be one medical officer for each 500 men.

As regards sanitary matters a medical officer could look after that by giving one hour each week. Deputy FitzGibbon touched upon a thing that I feel very shy about. Whereas I would like that the relatives of the prisoner who was seriously ill should be acquainted with the fact, I should be very sorry to have it inserted in the Bill that the relatives should be admitted, under any circumstances. If a man is very ill with pneumonia, it might be most injudicious that his relatives should be admitted at all to see him. With regard to the third point in the amendment, about which I feel most strongly, I say that the Minister should see that it is put into the regulation that where a man is seriously ill, say from pneumonia, his relatives should be acquainted, and if they were anxious that another doctor should be called in as a consultant then I think

it should be possible for the prisoner's relatives to have the right to bring in such a consultant. We all know, in private life, that though a consultant may not be able to do anything, still what a relief it is to the friends to have his opinion. I appeal as Deputy FitzGibbon has done, to the Minister to assure us that the relatives should be made acquainted with the fact when a prisoner is dangerously ill, and that if they express a wish to bring in a consultant, they should be allowed to do so.

Dr. WHITE: I desire to support some of the points raised in this amendment. Like the last Deputy I am not going to say what medical attendance there shall be for each person interned, but I certainly think that if an internee becomes seriously ill, the relatives should be acquainted, and the nearest relatives admitted to see the patient. In some cases, of course, the admittance of relatives might be detrimental to the patient, but, on the other hand, I think that the visits of relatives to internees who are ill would be very desirable.

Mr. O'HIGGINS: When I was going through this Bill and the amendments to it, it struck me that Amendment No. 74 could in large part, at any rate, be accepted as a suitable amendment to Section 13. The making of regulations is primarily a matter for the responsible Minister. Section 13 provides that these regulations shall be made by the responsible Minister, and not by Deputy Gavan Duffy. It is the proper thing to suggest, as Amendment 74 suggests, that the regulations should cover certain things. On the question of visits of consultants, and so on, I am well aware that the greatest possible care was taken, all through last year, to ensure that the relatives of prisoners seriously ill would be informed, and that if necessary they would be admitted. I am also well aware that there was never any difficulty whatever, when a *bona fide* request was put up for a consultant. I am aware, for instance, that a consultant, and the consultant that was asked for, was allowed in to Miss MacSwiney when she was on hunger strike, though that particular ill-

ness, and that particular critical condition, was brought on by her own act, and could have been terminated by her own act, or at least rapidly remedied by her own act. Yet, when Madame O'Rahilly came to me and asked that a particular consultant should be allowed in to see Miss MacSwiney, I at once translated that request to the Minister for Defence, and the consultant was, in fact, admitted. There is no use in Deputies getting up and, by implication or innuendo, suggesting that we are out to break the hearts of relatives of prisoners, or that we are out to kill prisoners by ill-treatment, or to deny them any necessary medical, surgical or nursing care. The contrary is the fact, and the contrary is well known to be the fact.

Mr. GAVAN DUFFY: The Minister does not improve the case by overstating what was said in favour of the amendment. I never said anything distantly resembling the remarks he has apparently attributed to me. I wish to inform him in reference to the admission of Specialists, that the Director of Medical Services asked for a panel of Specialists in cases such as I have referred to. In other words, the mere fact that the man was a Specialist would not be enough. His view was that the military authorities should choose from a panel of Specialists, and from a panel of Specialists submitted by the relatives. The Minister's assurances, I must say, are very unsatisfactory. If he had definitely told me that he would deal with this matter, as suggested, in the Section to which he has referred, and would, if necessary, make the necessary amendment to that Section to enable the matter to be dealt with, I should not have been inclined to press this matter. I should have withdrawn the amendment. Instead of that he deals with the matter very evasively. He does not answer a perfectly reasonable question, and seems to think that the proper way to deal with this matter is to indulge in sneers at the person who proposes the amendment. I think that is a most unsatisfactory way to deal with a matter which is a very serious one for prisoners.

Amendment put.

The Dáil divided: Tá, 12; Níl, 34.

Tá.

Tomás de Nogla.
Riobárd Ó Deaghaidh.
Tomás Mac Eoin.
Seoirse Ghabháin Uí Dhubhthaigh.
Tomás Ó Conaill.
Aodh Ó Cúlacháin.

Séamus Éabhróid.
Liam Ó Daimhín.
Seán Ó Laidhin.
Cathal Ó Seanáin.
Domhnall Ó Muirgheasa.
Domhnall Ó Ceallacháin.

Níl.

Liam T. Mac Cosgair.
Gearóid Ó Súilleabháin.
Micheál Ó hAonghusa.
Séamus Breathnach.
Pádraig Mac Ualghairg.
Peadar Mac a' Bháird.
Deasmhunnáin Mac Gearailt.
Micheál de Duram.
Pilib Mac Cosgair.
Domhnall Mac Carthaigh.
Sir Séamus Craig.
Gearóid Mac Giobúin.
Liam Thrift.
Eoin Mac Néill.
Liam Mac Aonghusa.
Pádraic Ó Máille.
Seosamh Ó Faioleacháin.

Seoirse Mac Niocaill.
Piaras Béalal.
Fionán Ó Loingsigh.
Séamus Ó Cruadhlaoidh.
Cristóir Ó Bréin.
Caoimhghin Ó hUigín.
Proinsias Bulfin.
Séamus Ó Dólaín.
Proinsias Mac Aonghusa.
Eamon Ó Dugáin.
Peadar Ó hAodha.
Séamus Ó Murchadha.
Seosamh Mac Giolla Bhrighde.
Liam Mac Sioghaire.
Tomás Ó Domhnaill.
Éarnán de Blaghd.
Uinseann de Faoite.

Amendment declared lost.

DAIL RESUMES.

Progress reported; Committee to sit again to-morrow.

The Dáil adjourned at 8.30 p.m.

DAIL EIREANN.

DEARDAOIN, 12ADH IÚL, 1923.

(Thursday, 12th July, 1923.)

Cromadh ar obair an lae ar 3.5 p.m. Bhí An Ceann Comhairle, Micheál O hAodha, 'sa Chathaoir.

GEISTEANNA—QUESTIONS.

[ORAL ANSWERS.]

ATHLONE-MOATE-STREAMSTOWN RAILWAY SERVICE.

SEAN O LAIDHIN asked the Minister for Industry and Commerce whether he is aware that the inadequate train service on the Midland Great Western Railway is causing great inconvenience to the people of Athlone, Moate and Streamstown; whether the first train for Dublin leaves Athlone at 11.15 a.m., and the last train for Athlone departs from Broadstone at 2.30 p.m.; and whether he will use his influence with the Manager of this railway with a view to having an earlier train run from Athlone to Dublin, and likewise a later one from Dublin.

POSTMASTER-GENERAL (Mr. J. J. Walsh) replying for Minister for Industry and Commerce: I have been in communication with the Midland Great Western Railway Co. on this matter. The Railway Co.'s position is still the same as was stated in reply to a question by the Deputy on the 15th November last, except that in regard to a later train in the evening from Dublin the Co. is in communication with the Postmaster-General.

I may explain that on the Post Office side we are endeavouring to get late trains running, not only on the Midland Great Western line, but on other lines. I hope our efforts will materialise before six weeks.

Mr. LYONS: Do you mean within six weeks from now?

Mr. WALSH: Well, certainly not in a lesser time than one month.

Mr. LYONS: It is owing to the number of people taken from Mullingar to Athlone to attend Courts, and that there is no train service to take them back at night, that I raise the question. I think the Government ought press for a better service.

Mr. WALSH: We are pressing for it.

TEMPORARY PRISON STAFF— QUESTION OF PENSION.

LIAM O DAIMHIN asked the Minister for Home Affairs whether provision will be made by him, by way of compensation or pension, for the temporary staff of the prison service, and who were so employed on, or previous to, the 6th December, 1921, should their services be no longer required, and whether any such compensation or pension as may be agreed upon will take into consideration the length of service of the individuals concerned.

MINISTER for HOME AFFAIRS (Mr. K. O'Higgins): It will be open to any member of the temporary staff of the Prison Service who was employed on or previous to the 6th December, 1921, and who may be discharged, to make a claim for compensation to the Civil Service Committee (Compensation). I would, however, point out to the Deputy that the case of temporary staffs who are liable, under the express conditions of their service, to discharge after a given period of notice stands on a very different footing as regards compensation from that of the pensionable staff.

LAND SETTLEMENT COMMIS- SION COURT DECREES.

SEOIRSE GHABHAIN UI DHUBH-THAIGH asked the Minister for Home Affairs whether it is proposed to put into the forthcoming Dáil Courts Bill a provision enabling the decrees of the Land Settlement Commission Court (including decrees for damages against trespassers) to be enforced.

Mr. O'HIGGINS: It is not considered necessary to include in the proposed Dáil Courts Bill any provision for the enforcement of decrees of the Land Settlement Commission Court. All such decrees are covered by assignments with the exception of a few which are being enquired into individually by the Minister for Agriculture.

Mr. GAVAN DUFFY: Can the Minister say if the few that are being inquired into individually will cover cases for damages against trespassers?

Mr. O'HIGGINS: I could not say.

DUNSHAUGHLIN R.D.C. ESTIMATE.

DOMHNALL O MOCHAIN asked the Minister for Local Government whether the estimate of the Dunshaughlin Rural District Council, passed by that Council on the 30th January, 1923, whereby it was proposed to raise £17,788 off the rates for maintenance of roads, has been sanctioned by the Local Government Department, and, if so, on what date; whether the Minister is aware that the estimate of £17,788, if so sanctioned, exceeded the estimate of the Co. Surveyor by £7,200, and exceeded the limit of expenditure, as fixed by the Local Government Act, by £13,144 5s., and whether the Minister, before sanctioning such excess, satisfied himself as to the necessity therefor, as promised by his letter of 23rd May, 1923, to the Solicitor of the Meath Association of the Irish Farmers' Union; further whether if the Minister satisfied himself as to the necessity for said excess, he would state on what grounds; and to ask, if the said excess has not been sanctioned, he will state whether the Meath Council are legally entitled to issue warrants for and collect rates calculated on the basis of said excess.

MINISTER for LOCAL GOVERNMENT (Mr. E. Blythe): The estimate of the Dunshaughlin Rural District Council is subject to the sanction of the Minister for Local Government only in so far as his consent is necessary under Sub-section 2 of Section 27 of the Local Government (Ireland) Act, 1898, to expenditure on roads proposed by the Council in excess of the limit fixed in pursuance of that enactment.

The Meath County Council have adopted the estimate of the Rural District Council and applied for consent to an expenditure of £17,700 on roads in the Dunshaughlin Rural District.

I am satisfied, however, after inquiries that the County Surveyor's estimate of £10,588 is reasonable and sufficient and am not prepared to authorise an extension of the limit beyond that figure. Any unexpended balance of rates which

may have already been struck in respect of the current financial year in anticipation of an expenditure of £17,788 will be placed in due course to the credit of the Rural District and will be taken into account when next year's rates are under consideration.

The question of the legality of the rate at present being collected is not one for me.

CLOSING OF RURAL SUB-POST OFFICES.

MICHEAL O DUBHGHAILL asked the Postmaster-General how many rural sub-post offices were temporarily closed down on the 1st of May, 1923, in Co. Clare; whether the persons ordinarily employed therein received full salary during the period of enforced idleness; whether new appointments were made during the period of suspension. If the answer to the third portion of the question is in the affirmative, to further ask the Postmaster-General to disclose the method of selection, and if those selected received salary from the date of their appointment or from their taking up work; and to ask that, having due regard to economy, the Postmaster-General will in future fill those positions and posts by tender, coupled with the necessary guarantees.

Mr. WALSH: The information asked for is not available at present, but I have taken steps to obtain it and will communicate with the Deputy on the subject at an early date.

MOATE TELEPHONE SERVICE.

SEAN O LAIDHIN asked the Postmaster-General whether inquiries have been completed with reference to the installation of the telephone service in Moate, and when this service will be in working order; further, whether he is aware of numerous complaints as to the charges for telephone service, and if he contemplates making a 50 per cent. reduction in same, and whether the Postmaster-General has received complaints that the charge of £15 0s. 0d. to private subscribers is considered excessive.

Mr. WALSH: The inquiries regarding the proposed opening of a Telephone Exchange at Moate have just been completed, and definite terms for the rental

of lines will be quoted to the prospective subscribers in a few days. Should agreements be signed by a sufficient number of subscribers the Exchange will be opened with the least possible delay.

In the case of new Exchanges the rental for a subscriber's line varies according to local circumstances, and is based upon the cost of the extension of the trunk telephone system to the place, and of the installation of the Exchange equipment. There is no standard charge in such cases, and numerous complaints have been made as to the prohibitive rental usually quoted. It is recognised that high rentals are not conducive to the development of the Telephone Service, and I am having the whole question of Telephone rates enquired into, with a view of ascertaining whether any reduction in the charges is warranted, and whether it would be practicable to afford extensions of the telephone system under more favourable terms.

Mr. LYONS: Is the Postmaster-General aware that a large number of people in Mullingar who had the telephone installed into their premises have now cut it off, owing to £15 being charged and there being no free call allowed? Persons who had the telephone installed had to pay for the calls in addition to the £15, and it was with a view to reducing the charges by the Government that I put this question.

Mr. WALSH: I have already made a very full statement on that subject and I do not want to go into it any further.

ATHLONE BRANCH POST OFFICE.

SEAN O LAIDHIN asked the Postmaster-General if inquiries are yet completed regarding the Branch Post Office, Connaught Street, Athlone, and if he is aware that traders in Connaught Street applied for a licence to sell stamps, and that they were informed that conditions are not such as to warrant the issuing of such licences; and further, in view of the fact that the Minister has already stated in answer to a previous question that a licence would be given, whether he will take steps to relieve the inconvenience caused to the people living in Connaught Street, Athlone, by the closing of the Branch Office.

Mr. WALSH: Inquiry as regards the necessity for a second Post Office in

Athlone has been completed, and it is found that the circumstances do not warrant the expenditure involved in the maintenance of such a facility. It is not proposed, therefore, to re-open a Sub-Post Office in that town.

The only application received for a licence to sell stamps has come from a shopkeeper whose premises are licensed for the sale and consumption of intoxicating liquor. It is not usual to grant a stamp licence for premises of the kind, but if an application is received from a shopkeeper in the locality who is not a publican, it will be given favourable consideration.

Mr. LYONS: Can the Postmaster-General state if it is his intention that a person who wants a licence to sell stamps in this particular street is supposed first to lodge £100 as security, and if that person wants to send for £4 worth of stamps that he will have to send £4 for them—will you give any statement to the effect or will you say what that person is gaining by getting this licence?

Mr. WALSH: There is no fee required.

KELLS (CO. MEATH) ARRESTS.

CATHAL O SEANAIN asked the Minister for Defence whether military assisted in the arrest of Michael and Matthew McInerney, Cornacross, Kells, who were apprehended some five or six weeks ago; what charge, if any, has been, or is to be, preferred against these men; whether the Minister is aware that strong representations have been made by the priests and people of this district for the release of these men, on the ground that it is a case of mistaken identity, and to ask if these prisoners will now be released forthwith.

MINISTER for DEFENCE (General Mulcahy): Michael and Matthew McInerney were arrested by military in conjunction with the Civic Guard on suspicion of being concerned in malicious damage to the property of Mr. Bond, Ballinlough. Matthew was released yesterday, and the case of Michael is under consideration.

CATHAL O'SHANNON: Can the Minister say whether there is any difference between the two McInerneys?

General MULCAHY: I can only infer that there is. One has, however, been dealt with. The other is being considered.

RATES FOR BUILDINGS OCCUPIED BY FREE STATE FORCES.

LIAM O DAIMHIN asked the Minister for Defence whether several applications have been received by him for rates due for the period ending 31st March, 1923, in respect of premises occupied by Free State Forces in Tullamore, Portlaoighise, and other towns in the division of Leix and Offaly; whether it is the intention, and if so when he intends, to pay such amounts, or will he state the reason for non-payment of same.

General MULCAHY: I do not appear to have received the applications referred to. The question presumably relates to premises commandeered by the military. In arriving at compensation payable in such cases the principle usually adopted is that such compensation shall be inclusive of rates. Applications from local authorities should not, therefore, be sent to the military authority.

KILRUSH I. T. & G. W. PREMISES.

LIAM O BRIAIN asked the Minister for Defence whether he is aware that the premises belonging to the Kilrush Branch of the Irish Transport and General Workers' Union were commandeered by the military in July, 1922, and have since remained in their custody, and that in consequence business in this Branch has to be transacted in the private residence of the Secretary; and whether the Minister will direct that these premises shall be restored to the Kilrush Branch of the I. T. G. W. U. at the earliest possible opportunity; and whether the Minister has received a claim for compensation for such occupation, made on behalf of the Branch, and when such claim will be dealt with.

General MULCAHY: The premises were taken over as a military necessity on 31st July, 1922, and are still occupied by troops. I am having an investigation made, and if it is found possible to evacuate the premises they will be handed over to the owner.

No claim has been received on behalf of the Kilrush Branch of the Irish Transport and General Workers' Union in re-

spect of the occupation of the premises, but a claim made on behalf of the owner is being dealt with by the Office of Public-Works.

QUESTION OF PRIVILEGE.

Mr. DAVIN: I desire to raise a matter of privilege concerning me personally, and concerning what I deem to be a misrepresentation in to-day's papers of what you said yesterday, regarding an incident that happened in the debate. You are credited in to-day's Press with having stated: "The Speaker was understood to say that the statement was slanderous." That refers to the statement I am alleged to have made here yesterday. However questionable my position in this Dáil may appear to any Minister or Deputy, and may I say that can be tested at any time either now or in the near future, I do not admit the right of any Minister or any Deputy to pass judgment here on any statement I make. Unless it is to be assumed that I and those who sit with me appear here as criminals in the dock, I think that your statement, as reported in the Press, is a misrepresentation of what you actually said. I say with all respect I would deny the right of any Minister or Deputy to pass judgment on any statement I make here.

AN CEANN COMHAIRLE: The question of whether a particular statement would constitute a slander is, of course, one for a Court to decide, and I would never undertake to give such a decision. But yesterday evening, in order to avoid what I thought might develop into a scene between the Deputy and a Minister, I intervened to point out that any statement made here by a Deputy is covered by the privilege of the Dáil. If an individual is aggrieved by a statement made here, the individual has, I understand, no legal remedy. If the statements were made outside the Dáil a person aggrieved by the statement could take legal proceedings. That was, I think, the meaning which the Minister for Home Affairs had in his mind when he said Deputy Davin could go outside. I think that was what the Minister had in his mind when he said, "Make such a statement outside." I do not think the Minister had any intention of ordering a Deputy out in general. I think the Minister will agree with that.

The Minister indicated assent.

AN CEANN COMHAIRLE: It was in order to prevent the Deputy from misunderstanding the Minister, and to prevent some words that might not help us that I intervened to point out the question of privilege. I could not have said that a particular statement constituted a slander. What I did say was that if a statement were made outside against any particular person that the person would have a legal remedy, whereas, when made in the Dáil the aggrieved person is deprived of a remedy.

Mr. DARRELL FIGGIS: There is one aspect of that that I thought of raising to-day, it is this, that the question of privilege extends over such matters and that question of privilege has been assumed in every country for some public purpose. It may be the duty of a Deputy to make a statement which if he made outside would subject him to legal procedure under the well-known tag "The greater the truth the greater the libel," but which, if true should be made here. There must be some place where a public statement could be made covered by protection, if that statement be in the interests of the public. I believe it is the custom that when a statement is made it is not anybody in the Dáil who challenges the maker of the statement to repeat it outside. It is the aggrieved party, and nobody else, who does that. I think we ought not in this Dáil raise any question affecting what is a very necessary privilege even in the public interest.

AN CEANN COMHAIRLE: I did not say anything yesterday about the matter which Deputy Davin had raised. I expressed no opinion but I merely intervened to explain a thing which arose between a Minister and a Deputy. The other question raised by Deputy Figgis is not relevant to this particular matter.

EXTENDED HOURS OF SITTING.

The PRESIDENT: I regret I have to call upon the indulgence of the Dáil to some extent for longer sittings than have been anticipated, in order to permit the discharge of the business which we found it necessary to introduce into the Dáil. I have made a personal examination of the time that has been taken to deal with the various amendments put down in connection with the Public Safety Bill. I find that we are not in a

position to devote, through normal meetings, a sufficient amount of time to this Bill. It is, therefore, my unpleasant duty to ask the Dáil to sit later and longer in order to deal with this matter. It is, of course, always within the power of the Executive to apply the remedies which are provided in the Standing Orders. We have not, so far, exercised our rights in those matters, and we do not wish to exercise them; we think that the ordinary time, which Deputies think is necessary to enable them to discuss and deal with the business presented to them, ought to be allotted, but it is not in our power to make an hour any longer than it is or to make a day's sitting longer than it is, unless we extend the period of a day's meeting from 3 o'clock p.m. until after 8.30 p.m. Now, the motion, therefore, I would move is this: "That the Dáil sit after 8.30 p.m. to-night for the consideration of the Public Safety (Emergency Powers) Bill, 1923, and that it adjourn not later than 4 a.m. to-morrow, Friday, the 13th inst." Before putting that I would like to know if it is possible to divide on questions after 8.30 p.m. I presume that you Sir, are the judge of that, and if it be possible to divide it is unnecessary to include in the motion any provision to suspend that Standing Order. If you decide against me on that I will include something which will enable us to take divisions after that hour.

Mr. O'CONNELL: Can a motion of this kind be taken without notice?

AN CEANN COMHAIRLE: Yes, there is a Standing Order, No. 10, which says: "A motion that Dáil Éireann shall sit later than 8.30 o'clock on any evening may be made without notice, and not later than 6.30 o'clock p.m. on the same evening. On Tuesdays and Thursdays this motion shall be made only by a Minister."

The President wants a ruling on Standing Order No. 9 (the old No. 10): "While Dáil Éireann is in Session, it shall meet at 3.0 o'clock p.m. punctually on Tuesdays, Wednesdays, Thursdays and Fridays of each week, unless the Dáil shall otherwise order. At 8.30 o'clock p.m. the Ceann Comhairle shall take the Order of the Day for the adjournment of the Dáil, whereupon any Teachta may bring forward any matter for discussion of

[An Ceann Comhairle.] which he has previously given notice, not later than 6.30 o'clock p.m. In the event of such discussion taking place the Dáil shall adjourn not later than 9 o'clock, p.m., but the Dáil shall not divide on any question after 8.30 o'clock p.m." The last paragraph which I have read seems to me to have special reference to a case where notice is given and a matter is raised on the adjournment. If under the Standing Orders we have power to decide that we shall sit later than 8.30 I take it, if such a motion were carried, we would be sitting later than 8.30 for the transaction of business. The transaction of business seems to me to involve the making of decisions, and if necessary the taking of divisions. If a motion to sit later than 8.30 were decided in the affirmative the business could go on in the ordinary way.

Mr. O'HIGGINS: I second the motion.

AN CEANN COMHAIRLE: The motion is that the Dáil sit after 8.30 to-night for the consideration of the Public Safety (Emergency Powers) Bill, 1923, and that it adjourn not later than 4 a.m. to-morrow, Friday, the 13th instant.

Mr. JOHNSON: One hears with interest, if not with pleasure, the statement of the Minister in making this motion. One might have been better satisfied if one had heard from the Minister an expression of regret that the business of the Dáil for the past three months has been so conducted as to make it necessary to have recourse to a motion of this kind. We have had meetings for one or two days and then adjournments for several days. We have had proposals to meet for three or four days, and then a suggestion that we should adjourn for a week or ten days because there was no business ready. Then we have the Minister coming along and saying "Here is a Bill which requires discussion, and there are other Bills on the stocks which require discussion of an equally serious character, and there are so many Bills of that kind on the stocks which require to be discussed, considered and amended before the expiry of the Parliament, that we can only get the business done by having all-night sittings." That is not a testimony to the way the Minister has

directed the business of the Dáil. There is implied in this motion a suggestion that there is too much consideration being given to this present Bill.

MINISTERS: No.

Mr. JOHNSON: I am glad to hear the disavowal. It has been implied by others who sit behind the Ministers.

Mr. BLYTHE: No.

Mr. JOHNSON: The fact is then that close consideration is required of the Bill, and that it cannot be done within the ordinary time allotted. I am not going to grumble at any demand upon the Dáil for time to consider fully every Bill that is put forward. I suggest, however, that it is not good for the Dáil or for the members that we should be asked to come here these days, sit from 3 o'clock in the afternoon until 4 o'clock next morning, and give proper consideration to important matters of legislation. I think the Dáil will agree, with the heat of the day such as we have had it in this building, members cannot—they show that by their absence—give proper consideration to those measures. I think it would be in the interests of the measure and of the Dáil if we accepted the suggestion of the Minister with regard to the night sitting, and adjourned until 7 o'clock or 8 o'clock from now and sit in the cool of the evening, and consider those matters under better atmospheric conditions. I am sure that that proposal will meet with the unexpressed assent of members. I am sure members will much prefer to meet here at, say, 7 or 8 o'clock p.m., and continue the discussion and consideration of the measure in the cool of the evening rather than sit from now onward for twelve hours and 25 minutes. It is not possible for those who take a serious view of their duties to sit here the whole time, and it is not possible for those who take a serious view of their duties to spend hours nominally in attendance, but not hearing the discussion, and I want, if possible, to avoid any reasonable excuse for that kind of conduct on the part of Deputies. I hope the suggestion will be received as it is made, and I, therefore, beg to move, as an amendment, that the Dáil do now adjourn and resume its sitting say, at 7.30 p.m., and continue to sit from that time until the hour named in the Minister's motion.

Mr. LYONS: I formally second the amendment.

AN CEANN COMHAIRLE: The Standing Order under which the motion is moved clearly contemplates an extension of the hours of sitting. It contemplates sitting until 8.30 p.m., and by motion made before 6.30 p.m., ordering that the Dáil may continue to sit. The amendment is an amendment to adjourn, and I think is not relevant to the motion. The motion could be amended by reducing the time during which we shall sit, but I do not think it could be amended by our adjourning, which is a different method of increasing the time available.

Mr. O'BRIEN: It is felt by some of our members that 4 o'clock would be a rather awkward time to disperse and that it might be well to extend it to 8 o'clock a.m. Perhaps the Minister would accept that?

The PRESIDENT: I am very glad to hear from the Deputy of the innocence of the Deputies for whom he speaks. I have been occasionally out at 4 a.m., and I do not think it would do the Deputy's friends any harm just to see the morning break at that hour.

Mr. NAGLE: The objection to 4 o'clock does not apply to me personally, but it does to those who are not living in Dublin, in whose case it would mean walking around the streets for about three hours, until a train would be running to Dun Laoghaire or Bray.

The PRESIDENT: I will try to provide accommodation for them when they are going, if that would meet the Deputy.

Mr. NAGLE: I do not think it would be very much use going to bed for two hours, getting up for a journey and finishing the sleep elsewhere.

Mr. O'BRIEN: I move, as an amendment:—"That 8 a.m. be substituted for 4 a.m."

Mr. MORRISSEY: I second that.

The PRESIDENT: I accept that.

AN CEANN COMHAIRLE: The amendment is to substitute for the words "4 a.m.," "8 a.m.," so that the motion would then read, "That the Dáil sit after 8.30 p.m. to-night, for the consideration of the Public Safety (Emergency Powers)

Bill, 1923, and that it adjourn not later than 8 a.m. to-morrow (Friday), the 13th inst."

The PRESIDENT: I am very glad to be able to meet the Deputy on that.

Amendment agreed to.

AN CEANN COMHAIRLE: The motion, as amended, is now before the Dáil.

CATHAL O'SHANNON: There is something to recommend the motion, and if the motion is carried I hope that the Ministry will make such provisions for the conduct of business that the more serious part of the business will be taken from 9 or 10 o'clock at night until the earlier hours. It is, I think, obvious to everybody who is taking part in the business that it is very trying. Many of us have been remarking, within the last three or four days, that Ministers themselves must be feeling the strain very much, much more than the ordinary Deputies, and if the Minister's motion is intended to give plenty of time for the discussion of the serious Bills that are to come before the Dáil I think that nobody could have a reasonable objection. There was some talk the other day to the effect that the Dáil was rather a churning machine for churning out Bills. It looked to some extent very like that. The churn, if we are to take the Minister's word for it, does not seem to have been working very effectively, because it has not been churning them out quickly enough. There would be an opportunity for churning them out much more quickly and giving much more time to their consideration under this proposed arrangement. That, I think, is of very great importance. I do not know whether I would be in order in referring to another House in this connection, but some of us have rather an admiration for the ease and facility with which another House can dispose of several weeks' work in about twenty minutes. We have not yet, with all our experience of eight or nine months' legislation, acquired that particular facility, but I have no doubt that, if in the early parts of our day's debate we are meeting in a more or less heated atmosphere, as we go into the cooler atmosphere of the night we will be able to legislate in a manner becoming to the Dáil and to the whole nation. It is important, I think, that we should

[Cathal O'Shannon.] legislate in that manner. I hope for the sake of the Dáil and the credit of the nation that we shall have rather more active and actual interest taken in the measures before the Dáil by those Deputies who take very little interest apparently except only when it comes to a division and to vote. I for one hope to see to-night that the benches will be not only full from eight o'clock on, but that the cooler atmosphere, not to talk about other things, will enable those Deputies to speak and take a real interest in improving not only the machinery of legislation, but the legislation itself.

Mr. MILROY: I would like before the motion is put to know is it the intention of the Government to sit also to-morrow at twelve o'clock.

The PRESIDENT: Yes, from 12 o'clock to 4.

Mr. MILROY: In that event I do not know whether human nature can stand the strain. If we have to sit now until 8 o'clock in the morning, and resume after four hours that is not conducive to serious discussion.

CATHAL O'SHANNON: You will get the serious discussion all right.

Mr. MILROY: I have a good deal of sympathy with Deputy Johnson's suggestion that we should adjourn until later on this evening and then sit until a late hour to-morrow morning.

Mr. WHELEHAN: I have been very much impressed in finding that Deputy O'Brien has approved of the principle that we should work for seventeen hours per day, and I am also interested in finding that those who support him so whole-heartedly support that proposition.

Mr. LYONS: I am sure the reason of the President in extending the hours is simply to try and get the Public Safety Bill through before morning. I presume there must be a very large number of offenders throughout the country waiting for this Bill to be passed so as to be put inside and kept in safe places at the expense of the ratepayers. So far as I am concerned, I am quite prepared to act in continuous sittings for any length provided that the Minister for Home Affairs, and other Ministers, do not make such long speeches against

amendments to the Bill. If there is any delay in passing those Bills the Minister who puts them forward must accept all responsibility for the delay. I can assure the Dáil that I will not let the Minister for Agriculture get away, for he made very long speeches to the amendments on the Land Bill last week. In fact I was of the opinion that those Bills were only brought forward to flabbergast the people of the Saorstát. Those Bills were brought forward with no serious idea that they would go through until after the next election.

Coming back to the subject of sitting here all night, and adopting the same policy as another country across the Atlantic—I really find it very hard to say the sister nation—I cannot do it. If we are going to adopt this policy, I sincerely hope that the President, who is also Minister for Finance, will not forget that the messengers, attendants, and all the people who are employed by him to act in the Dáil, will get double pay for overtime. All overtime starts from the time the day's work finishes, and it is not their fault if the Minister puts forward the idea of sitting all night, and if these attendants, messengers, and others are paid this overtime it will be at the expense of the Minister, and I hope not at the expense of the State. Furthermore, I think Deputy Johnson's amendment is a very reasonable one. He has taken into account the terrible wave of heat that is passing over the country at the present time.

AN CEANN COMHAIRLE: Deputy Johnson's amendment is out of order.

Mr. LYONS: Well, Deputy O'Brien's amendment. Deputy O'Brien, being a sensible Teachta, has taken into account the long hours for the employees. Deputy O'Brien recognises as well as I do that the benches opposite were practically empty during the sittings for the past few weeks, and that after a discussion, when the button was pressed, Deputies just came in to say "Tá" or "Níl" on the division. If this night sitting takes place I hope every Deputy will be in his place, and I can assure the Minister for Home Affairs that, as far as the Labour benches are concerned, we will give him speeches enough on the amendments to this Bill.

Mr. DARRELL FIGGIS: It is now 4

o'clock, and if the Atlantic has got shifted from the West to the East of Ireland by 4 o'clock in the afternoon, where would it get by 4 o'clock in the morning?

The PRESIDENT: I think it is due to Deputy Johnson and to other Deputies that I should admit what he said about the indulgence of the Dáil with regard to the business put before them for the last six or nine months. There has been serious cause of complaint. I have explained more than once that that was owing to the circumstances of the time and to the fact that although it took some time to prepare certain measures and produce them in the Dáil, no undue delay took place. We gave them very careful consideration before we brought them forward, and I can certainly answer for the Ministry that, so far as I know, it has not neglected any opportunity of bringing business forward at the earliest possible moment. There is, of course, cause for dissatisfaction, but I should say that we were not concerned entirely with legislation that came before the Dáil. There were many other matters, and for some time there will be other matters, engaging the attention of the Ministry. I admit that we have had to draw a good deal on the indulgence of the Dáil, and I would like to pay a tribute to the members of all parties for the consideration they gave the Ministry in connection with the discharge of its duty.

Mr. JOHNSON: On this motion I

would like to say that, except from the point of view of the personal convenience of Deputies sitting in the heat of the day, no case has been made for the extension of time beyond the ordinary. I understand that the Seanad has adjourned for a fortnight. Except for the Corrupt Practices Bill, I do not think there is any Bill before the Dáil at the moment awaiting consideration. I submit that no case has yet been made, except the one for the personal convenience of Deputies, for insisting on a twelve hours' sitting. This is Thursday evening. Only last week we decided to change the period of the sitting on Friday to allow Deputies to go home. It would have been a very much more reasonable proposition to extend the hours of Friday's sitting rather than to cut off a Friday's sitting one week and then go on with all-night sittings next week. As I say, there are two measures before the Dáil of importance, and when these are passed the Seanad will have nothing to do for several days. The Seanad will not sit for a fortnight, but when the Seanad gets these Bills I do not know how long they may take over them. They may take a considerably longer period than the Dáil would take—very likely will, I think. I am sorry that the Minister has not been able to make a better case for a continuous Session to-day than he has done. I hope that will be remembered on the next motion.

Motion put.

The Dáil divided: Tá, 42; Níl, 15.

Tá.

Liam T. Mac Cosgair.
Gearóid Ó Súilleabháin.
Uáitéar Mac Cumhaill.
Seán Ó Maolruaidh.
Micheál Ó hAonghusa.
Domhnall Ó Mocháin.
Seamus Breathnach.
Pádraig Mag Ualghairg.
Peadar Mac a' Bháird.
Deasmhumhain Mac Gearailt.
Seán Mac Garaidh.
Risteárd Ó Maolchatha.
Pilib Mac Cosgair.
Micheál de Stáineas.
Domhnall Mac Cárthaigh.
Earnán Altún.
Sir Seamus Craig, Ridiro, M.D.
Liam Thrift.
Eoin Mac Néill.
Liam Mag Aonghusa.
Pádraig Ó hÓgáin.

Pádraic Ó Máille.
Seosamh Ó Faoileacháin.
Seoirse Mac Niocaill.
Piaras Béaslai.
Fionán Ó Loingsigh.
Seamus Ó Cruadhlaich.
Cristóir Ó Broin.
Caoimhghín Ó hUigín.
Próinsias Bulfin.
Seamus Ó Dólaín.
Seán Mac Eoin.
Próinsias Mag Aonghusa.
Eamon Ó Dúgáin.
Peadar Ó hAodha.
Seamus Ó Murchaitha.
Seosamh Mac Giolla Bhrighde.
Liam Mac Sioghaird.
Tomás Ó Domhnaill.
Earnán de Blaghd.
Uinseann de Faoite.
Seamus de Burea.

Nil.

Donchadh Ó Guaire.
 Tomás de Nógla.
 Riobárd Ó Deaghaidh.
 Liam de Róiste.
 Tomás Mac Eoin.
 Seoirse Ghabháin Uí Dhubhthaigh.
 Liam Ó Briain.
 Tomás Ó Conaill.

Aodh Ó Cúlacháin.
 Séamus Eabhróid.
 Liam Ó Daimhín.
 Seán Ó Laidhín.
 Cathal Ó Seanáin.
 Domhnall Ó Nuirghoasa.
 Domhnall Ó Ceallacháin.

Motion declared carried.

SUSPENSION OF STANDING ORDERS MOVED.

Mr. JOHNSON: I ask permission to move the suspension of Standing Order No. 10, so as to allow the Dáil to adjourn until 8 o'clock, so that the discussion of the measure before the Dáil, which is on the agenda, might be conducted in conditions that the measure itself deserves. I think that is the orderly way to proceed, and I want to give my reasons for asking why this course should be adopted.

AN CEANN COMHAIRLE: The Deputy has asked leave to move the Adjournment of the Dáil until 8 o'clock. Standing Order No. 11 reads:—"A motion that Dáil Éireann do adjourn for a period, not exceeding two hours, may, at any time, be made by permission of the Ceann Comhairle and without notice."

That Standing Order prescribes that the period shall not exceed two hours. The other Standing Order which deals with the suspension of the Standing Orders is quite different. It reads:—

"In case of urgent necessity of which Ceann Comhairle shall be the judge, any Standing Order, or Orders, of Dáil Éireann may be suspended for the day's sitting on motion duly made and seconded, with or without notice, provided that such motion has the support of a majority of Teachti of Dáil Éireann who are qualified to vote."

Mr. JOHNSON: My desire was to move the suspension of the Standing Orders, thinking that that was probably the most orderly procedure.

AN CEANN COMHAIRLE: That would have to be a case of urgent necessity.

Mr. JOHNSON: I think the case is urgent.

AN CEANN COMHAIRLE: I think in view of the decision we have just reached it could not possibly be maintained that the necessity is urgent.

Mr. JOHNSON: Owing to that ruling I ask permission to move that the business be suspended for two hours to allow of the special heat of the day to pass before we are asked to undertake the business on the Agenda. I do not think the weather is any cooler now than it was yesterday, and it is within the recollection of the Dáil that the great majority of the Deputies were not able to sit in this building because of the heat. For many minutes or hours of the day there were very few members here, and many times it would have been quite competent, if we had not been in committee, to call for a Count because there were not twenty members in the House. I can only attribute their absence to the discomfort arising from the heat, and I am sure members are as anxious to discuss this measure with all the earnestness and consideration they think it deserves, and that though the flesh is weak the spirit is willing. We have a right to assume that; it is only fair to the Dáil to assume that. To do otherwise would be assuming that Deputies were treating the Dáil with disdain and in fact were doing what you yourself, Chinn Chomhairle, ruled upon yesterday, treating the Dáil with derision.

It is the duty of members to be present when urgent important matters of legislation are under discussion. If the atmospheric conditions are such that members find, notwithstanding their desire to be present, and to fulfil their duty to their constituents, notwithstanding the anxiety they have for the interests of their constituents when matters of this kind affecting dozens of them is under consideration, and their earnest desire to look after those interests, they are not able to attend because of the condition of the atmosphere of the House, I submit it would be in the general interest that we should adjourn until 6.15, to let the torrid heat pass, and to allow members to get a breath of fresh air, and, perhaps, to provide themselves with the

nutriment necessary to carry on their work

AN CEANN COMHAIRLE: Standing Order No. 11 reads: "A motion that Dáil Eireann do adjourn for a period not exceeding two hours may at any time be made by permission of the Ceann Comhairle and without notice." The motion which has just been carried was a motion to continue after 8.30 to-night, presumably because necessary business would not be transacted by 8.30, and to move to adjourn for 2 hours now seems to me to be a negative of the motion just carried. Unless a reason, better than the atmospheric conditions can be adduced, I do not think permission can be given for a motion to adjourn for two hours now, in view of the motion which has just been carried.

Mr. JOHNSON: I just wish to draw attention to this fact that the suggestion made on the original motion was, I think, favourably received, and it was only because of the fact that it did not conform to the Rules of Order that it was not generally accepted. I think Deputy Milroy was speaking the views of the members on the opposite side, and only for the fact that the suggestion was not in accordance with the Rules of Order, I am sure the Minister in charge of the original motion would have accepted it. On that ground alone I think the Dáil might be asked to agree to this motion.

AN CEANN COMHAIRLE: When an amendment was offered to the motion that has just been carried, I ruled it out for certain reasons, and the reasons must have made it clear to Deputies before they voted on the motion that the motion was one to sit until 8.30 and to continue longer than 8.30. I, therefore, could not give permission now for a motion to adjourn for two hours for the reasons stated. I allowed Deputy Johnson to state his reasons so that I might be able to see what was precisely in his mind in order to rule on the question.

[DAIL IN COMMITTEE.]

PUBLIC SAFETY (EMERGENCY POWERS) BILL, 1923—THIRD STAGE RESUMED.

Mr. GAVAN DUFFY: I move Amendment No. 18, to insert before Section 4 a new Section as follows:—"It shall

not be lawful to detain in custody without trial any person who shall have three or more children under the age of sixteen years wholly or mainly dependent on him."

I think it will be generally agreed that some amendment of this kind is necessary from ordinary motives of humanity. I have had occasion recently, for another purpose, to make some enquiry as to the prevalence of distress in Dublin, and I must say that I have been amazed at the number of cases of large families whose bread-winner is in prison here in this city of Dublin, cases where a man interned leaves three young children, or five, six or even seven practically unprovided for. I do not like to cite actual figures, because I have not got them absolutely accurate, but the Dáil may take it as a fact that there are a large number of such families in this city. In a case like that there are frequently three young children, and the mother is not able to work; she has to look after the children, and very often the eldest child is not old enough to be earning. The consequence has been that there have been cases of acute distress. I ask the Dáil to observe that the motion is confined to cases of persons imprisoned under suspicion.

I quite recognise that if you are dealing with a criminal against whom you can bring a charge, that man should be proceeded against irrespectively of the number of his dependents, but I think it will be agreed that it is fair when you are passing a law to intern people on suspicion that cases where other persons wholly innocent will be seriously injured or will be liable to be seriously injured by your acting on suspicion against their fathers are cases which should be specially provided for. It seems to me where a man answers the general call from those whom he looks to as his leaders to go out in such a rebellion as we have seen, and where that man in so doing knows that he is risking great hardships for his children it is a great proof of his loyalty and sincerity. I do not think that the State need be apprehensive of such sporadic acts by such a man as that as would be a danger to it. In view of the fact that there are many such men with large families, a fact which I can absolutely vouch for, and that there has been great distress in consequence of their internment, I very

[Mr. Gavan Duffy.]

earnestly press this amendment. I may say this further fact makes some such amendment all the more necessary, namely, that the Ministry or its agent have thought it necessary to annex very considerable sums of money collected for prisoners' dependents. Those sums have been held for a considerable time on the ground, apparently, that they might be used for some other purpose than the relief of prisoners' dependents, and on the suspicion that they might be so used. I do not know if any such sums have been returned, but, at all events, the fact of the withholding of such large sums has made it very difficult to deal with persons in the category with which this amendment deals. There has been very great distress, but there will be more distress if people who have a large number of dependents are allowed by the Dáil to be interned on mere suspicion.

MINISTER for HOME AFFAIRS

(Mr. O'Higgins): I regret I cannot accept the amendment, nor can I accept the principle that the person with three or more children is entitled to exemption under an Act of this kind. I assume that many persons with three or more children have taken part in the armed revolt against the State within the last year, and I cannot undertake if the opinion is held, and held strongly, that the release of such person would be a danger to the public safety, such persons will be released. The amendment would involve that. Neither can I accept the principle that if a man with three or more children is reasonably suspected of the offences mentioned in Part II. of the Schedule he must go free in the critical conditions of things in the country. It is for those who have called him out and who have applauded from behind in the campaign of the last twelve months to advert to the sacrifices and the hardships that they are plunging people in, both the individuals themselves and their children, and the responsibility lies on them. I think it will be obvious to Deputies that an amendment of that kind, drawing distinction between citizens on the purely accidental circumstance of the numbers of their families, would be impossible of acceptance. I do not propose to stress the matter any further.

Mr. LYONS: I am surprised to hear the Minister for Home Affairs rejecting this amendment.

Mr. O'HIGGINS: I was wondering whether Deputy Lyons was not a rather biassed person to speak on this amendment?

Mr. O'CONNELL: He has only ten.

Mr. LYONS: I am going to press the acceptance of the amendment on the Minister for Home Affairs, who has charge of this Bill, and in whose power it is to accept amendments such as this in order to improve the Bill, so that the people of the Saorstát may gain some benefits from it, instead of the Bill, as it at present stands, leading the Saorstát into complete bankruptcy of the worst type. The new Section suggested is a very reasonable one. I wonder does the Minister fully realise the number of men who are at present interned and who have more than three—some of them eight—children under sixteen years of age. What preparations, if any, has the Minister made in connection with the dependents of prisoners who may be taken on pure suspicion and detained without being charged or tried for a week? What is to happen the dependents of those persons? What is to happen the little children during the time their breadwinner is in prison under a false charge? The Minister says he cannot accept the amendment, but he offers no help or no way out for the children of the man who is imprisoned on his signature. The Minister may put his signature to a particular letter simply because some of his captains or somebody in the Saorstát may get in touch with him and tell him that such a person is a dangerous character to have at large. There is no proof that the man is a dangerous character. What the Minister says is, "If you say this man is a dangerous character, it must be so; the man must be dangerous and he must be taken and interned; his children must starve and we will have to make an example of this particular man although he has a family. We must teach the children, and when they are reared they will have the same respect for the Saorstát as we, in our time, had for the English." That is what you will do. Instead of giving the parents an opportunity of rearing the

children and educating them so that they may be in a position to assist in the progress and general welfare of the country, you will be working in the contrary direction. You will be so doing if you do not accept the amendment. I am surprised the mover of the amendment did not specify any man who is married and who, if not a father, might be a prospective father. It is a shame and a crime against humanity to arrest and intern without trial or uncharged the father of a helpless family. By doing so you are really allowing children to starve. What will their mothers become? The women whose husband is arrested and interned knows perfectly well that the breadwinner is absolutely innocent, as innocent as the falling dew from heaven. That is the only comparison I can find at the moment; I can find no comparison in any living person, and therefore I must compare it with the dew falling from the heavens, for the dew cannot commit sin. Now I do not stand up here simply to try to prolong the time, as I can see that thought passing in the mind of the Minister for Home Affairs. I can see that he believes that I am standing up here supporting this amendment in order to prevent this Bill passing through before 8 o'clock in the morning. My intention is nothing of the kind. I am supporting it because, to my mind, this amendment is just and honest and perfect. If you want to make citizens have respect for the Saorstát, then you must treat them as citizens. Do not make the young child that is toddling along to school an enemy of the Saorstát. If you reject that amendment, believe me, you cause that child suffering. If you cause that child to go to bed without its supper or to school without its breakfast, if you cause its mother to be penniless, and if you cause her to go with her hand out looking for alms, as she would have no other way of living if her husband is cast into prison by the representatives of the majority of her own people, they are wrong tactics. It is the wrong way to get people to support you. Give the children an opportunity of being educated and brought up as they ought to be. I ask you to accept this amendment, and so prove that there is one soft spot in the heart of the Minister for Home Affairs, a heart which the people say is something like flint. I ask you to accept that amendment. You

might possibly think that it is owing to the motion being put forward asking the Dáil to adjourn and because we were defeated that we are standing up here. I can assure the Dáil it is nothing of the kind.

The Minister for Home Affairs knows as well as I do that he has succeeded in getting the majority of this Dáil to pass every Bill he puts forward. He knows in his heart of hearts, if he has such a thing as a heart, that this amendment is one of the most necessary amendments put forward by any Deputy. I know the Minister for Home Affairs has a heart, and that is why, more or less, I am not going contrary to him. I am making what I would call a fatherly appeal. By accepting this amendment I am sure that the Minister for Home Affairs will improve the Bill. I am sure he will change his mind, and that he will prove that he has a heart. Before this amendment is put to the Dáil I hope that every Deputy who answered his name here to-day will be able to stand up and deliver at least a half an hour's speech on it. If we do we may be able to get the views of the Dáil whether they are against having the fathers of families cast into prison and allowed to remain there until some humbug of a charge shall be made against them. I know myself of three or four particular cases where men have been arrested. I know one man from Edgeworthstown in Longford. I know a man out of the town of Longford and another man from Castletown in County Westmeath. These men are fathers of families. Worse than all, I know some men who are at the present moment without any charge having been made against them. These men were ex-service men. They had a pension from the British Government. As soon as these men were arrested and interned the pensions ceased, and their wives are dependent solely upon the generosity of the locality where they live. What will apply under this particular Section 4 if some such amendment is not accepted? Are you going to have the same thing apply here as applied for the past hundreds of years? They say of a man, "We have knocked all we can out of him, he is no earthly use to the Saorstát; there is a possibility, as somebody has told us, that he is thinking of doing something against the Saorstát, and I am going to arrest him now and allow his children to starve." You punish the innocent for

[Mr. Lyons.]

the sake of the guilty. That is the idea the Deputy had in mind when he put forward this amendment. It is put forward to save these little innocent children that we are looking to for the future of the Saorstát, to build it up and to prove that we are a credit, even though the present generation has been such a disgrace. The Dáil should accept this amendment. Let the Deputies say, "We will not allow the fathers of innocent children to be imprisoned. If a man is an innocent man we will not allow his children to starve. We will not allow their mothers to become solely dependent upon the generosity of their neighbours." The idea of this amendment is to save that. I ask the Dáil to accept it. This is an honest amendment. If the Minister does not accept it it will be the worse for the Bill. I hope he will accept it, and if he does I can assure him he will have a more easy passage for the Bill. If he rejects it I can guarantee him having a very rough passage for it.

Mr. JOHNSON: The motion of Deputy Gavan Duffy in moving this amendment has been treated with a certain amount of levity by the Deputies, and not unnaturally, because of the dramatic way in which Deputy Lyons has emphasised the arguments he puts forward. He is entitled to speak in a matter of this kind. Apart from the fitness of the amendment, in the place where it is intended to be put, I want to ask the Dáil to consider whether some such provision should not be included in the Bill. It asks that there should be some discrimination, and that a person having three or more children dependent upon him under the age of 16 years shall not be imprisoned without trial. I think Deputy Gavan Duffy argued fairly when he said that the very sense of responsibility for children must be somewhat of a deterrent against the commission of acts which might bring a citizen under the provisions of the Bill, and that the very fact that such a citizen has responsibility to children ought to be security against the risk that he is going to be detained for a possible 6 months without trial. After all it is not the desire of the Dáil to visit the sins of the fathers upon the children and surely it is not, at least I hope it is not, the desire of the Dáil to visit upon the

children the punishment which is an almost certain consequence of the arrest on suspicion of the father. Deputy Gavan Duffy has cited cases of families whose breadwinners have been in prison for some months and who are in actual physical want. On another occasion when a matter of this kind was mentioned it was said that there had been money provided and that the families of prisoners, the dependants of prisoners, had as a matter of fact been cared for. I happen to know one case, at any rate, where the family of a prisoner has not in fact been provided for, for the simple reason that the family had no connection whatever with any organisation which pretended or professed to take under its charge such prisoners. It is for the consideration of the children of people for whom there is no provision that I ask the Dáil to consider the merits of this amendment. It is no fanciful story or prophecy that Deputy Lyons has put forward for consideration when he says that the children of internees will grow up with a spirit of anger against the State which enforced upon them, on the mere suspicion of a captain of the Army, hunger, perhaps cold, perhaps shortage in many ways and upon their mother actual suffering, physical and mental. The Minister has told us, and it is no doubt his intention, that this Bill is designed to meet the transition period. That being the case, I would urge that there can be no great risk in providing an assurance that the heads of families are going to be immune from arrest and imprisonment without trial. The Minister has minimised the risks of persons being arrested and detained on suspicion, saying that such suspicion will have to be very well grounded before these imprisonments will continue. You are under this amendment asked to provide that the children will be protected against the risk that their father or their mother, who may be the breadwinner, shall be detained for a period of six months merely on suspicion. I personally am not satisfied that the best way to arrive at that end is by this means. I am not sure that the form of the motion or the place in the Bill is the most fitting, but I am sure Deputy Gavan Duffy is not considering the verbal form of this amendment so long as he can get a positive assurance that the children of citizens are not going to be allowed to

suffer, and that the parents are not going to be imprisoned on suspicion and their children allowed to suffer. I think it is to his credit, and I hope the Dáil will participate in that credit, that he should have regard to the children of possible suspects, and try to make provision in the Bill for safeguarding their interests. I would ask the Dáil to vote in favour of the insertion of this new section.

Mr. O'DONNELL: It is all right to adopt a humanitarian attitude, and it certainly is very popular on all occasions. This amendment is with regard to the imprisonment on suspicion of parents who are heads of families. I know an occasion where the head of a family happened to be in the National Army. He came home on leave for a few days. He was the father of ten. The mother came out of the infirmary a week or two previously. There had been twins four months previously. A certain party came to his house, nine or ten men, at two o'clock in the morning, and gave him a trial. They took him out from the bed where one of the twins, four months old, was sleeping, and shot him after three hours of a trial and something more than a trial. If he had been shot decently it would have been all right.

Mr. JOHNSON: Would it?

Mr. O'DONNELL: Certainly.

Mr. JOHNSON: On a point of order I am sure that the Deputy would not desire it to go down in the records that it was all right if he had been shot by these persons decently.

Mr. O'DONNELL: It would have been better; but he was not shot decently. Supposing there was another head of a family under suspicion for this offence. Has the Opposition on any occasion advocated that those persons should be brought to justice, or that those who bring them to justice should be facilitated? Have we always to adopt this humanitarian attitude? I want to ask have those who wish to bring culprits to justice been facilitated by the parties who are now humanitarians?

CATHAL O'SHANNON: If the Deputy suggests that those of us whom he refers to as the Opposition in any way approve of the act or similar acts to that

which he mentioned, he is making an implication that is not only undeserved, but one which we resent. So far as our judgment goes, we have not done anything that would prevent the proper authorities from taking proper action in such cases as that. What we did object to were certain things which we thought improper.

MINISTER for EDUCATION (Prof. MacNeill): Is this discussion in order?

AN CEANN COMHAIRLE: Deputy O'Donnell speaks so seldom that I heard him patiently to the end. When he had told his story he spoke two sentences that were relevant to the amendment. Then he went away from the amendment to make a statement that I was not quite sure about, and which Deputy O'Shannon has refuted. I think it is hardly necessary to refute those statements. I do not think that Deputy O'Donnell had in his mind that Deputy O'Shannon or anyone associated with him would not do his best to trace up crimes of that sort.

Mr. JOHNSON: Deputy O'Donnell's assertion is one of a series of similar statements charging us with condoning crime, and I resent it. The Minister for Education did not call Deputy O'Donnell to order.

Professor MacNEILL: I have asked if the discussion was in order. If Deputy O'Donnell went out of order, and if Deputy Johnson was of opinion that he did, he should have called attention to it at the time. I now ask if it is in order on the amendment.

AN CEANN COMHAIRLE: No, the discussion is not in order, but, as I say, Deputy O'Donnell speaks so seldom that I allowed him to develop what I thought possibly might be an argument for or against the amendment. He said something at the end which Deputy O'Shannon interprets that Deputy O'Shannon and all associated with him would not assist in tracing people committing a crime such as Deputy O'Donnell describes. Surely Deputy O'Donnell does not mean that?

Mr. O'DONNELL: No. What I mean is that all parties who come to this Dáil and have any respect for the dignity of this Dáil should always facilitate the parties in every legitimate way who are out to trace up crimes of all kinds.

AN CEANN COMHAIRLE: That is an excellent statement, with which we all agree, but which has no relevance at all to the amendment. Deputy O'Shannon can now continue on the amendment.

CATHAL O'SHANNON: Deputy O'Donnell says that it is all right to talk humanitarianism, and I suppose there is a limit to humanitarianism. There is, undoubtedly, at the same time if there is a limit to it, that is not any particular reason, in my view, why when we can be humane and show a certain amount of humanity we should not show it. I did not suggest, in supporting the amendment, that we should let humanitarianism run mad, because if we did we would not be able to take measures for the protection of life or the preservation of the State or anything else. There are degrees in all those things that have got to be considered, but his argument does not go as far as he thinks it does. The fact that the Deputy asks that certain things be done which are mentioned in his amendment does not mean, unless I

am misjudging his words altogether, that everything is to be allowed, provided that the head of the family is the person concerned and that he has dependent on him three or more children under the age of sixteen. I do suggest that in a case like that there is a reason for a very much greater care in examination than there is in a case where one has not so many dependent on him. Even during the period of the war with the British here I think there was a certain amount of consideration given to that. While everybody agreed that when a man's duty directed him to take a certain line, it was his duty to take that line, while giving full consideration to his responsibilities otherwise, yet in many cases care was taken to discriminate, if it were possible to ease the pain, and the penalties then were made to fit that. I do suggest that the amendment asks for very little more than would be ordinarily reasonable. I do not think that it asks for more than can reasonably be considered just, at all.

The Dáil divided: Tá, 14; Níl, 40.

Tá.

Tomás de Nógla.
Riobárd Ó Deaghlaidh.
Liam de Róiste.
Tomás Mac Eoin.
Seoirse Ghabháin Uí Dhubhthaigh.
Liam Ó Briain.
Tomás Ó Conaill.

Aodh Ó Cúlacháin.
Seánus Éabhróid.
Liam Ó Dainhín.
Seán Ó Leidhín.
Cathal Ó Seomáin.
Domhnall Ó Muirghéasa.
Domhnall Ó Ceallacháin.

Níl.

Liam T. Mac Cosgair.
Donchadh Ó Guaire.
Gearóid Ó Súilcabháin.
Uáitéar Mac Cumhaill.
Seán Ó Maolnuadh.
Micheál Ó hAonghusa.
Domhnall Ó Mocháin.
Seánus Breathnach.
Pádraig Mac Ualghaigh.
Doasmhunnain Mac Gearailt.
Micheál de Durain.
Seán Mac Garaidh.
Risteárd Ó Maolcaththa.
Pilib Mac Cosgair.
Micheál de Stáineas.
Domhnall Mac Cárthaigh.
Maolmhuire Mac Eochadha.
Earnán Altún.
Sir Seánus Craig.
Gearóid Mac Giobúin.

Eoin Mac Néill.
Liam Mac Aonghusa.
Pádraic Ó Máille.
Seoirse Mac Niocail.
Piaras Béaslaí.
Fionán Ó Loingsigh.
Seánus Ó Cruimhlaoidh.
Cristóir Ó Broin.
Caoimhghín Ó hUigín.
Próinsias Bulfin.
Seánus Ó Dóláin.
Próinsias Mac Aonghusa.
Eamon Ó Dúgáin.
Peadar Ó hAodha.
Seánus Ó Murchadha.
Seosamh Mac Giolla Bhrighde.
Liam Mac Sioghaid.
Tomás Ó Domhnaill.
Earnán de Blaghd.
Seánus de Burca.

Amendment declared lost.

Amendment (19) by Mr. GAVAN DUFFY: In Sub-section (1) to insert after the word "experience," the words "and of whom the two others shall be persons well known and distinguished for their integrity, their sense of justice and their impartial judgment."

AN CEANN COMHAIRLE: Amendment No. 19 is not in order on the ground of vagueness. It is altogether too vague to be inserted in an Act of Parliament.

Mr. GAVAN DUFFY: It is a minor amendment in itself. The purpose of it is to draw attention to the need for some definition. Perhaps its definition is vague. May I amend this by having words put in now or at the next stage?

AN CEANN COMHAIRLE: No. I told the Deputy several days ago that this amendment was too vague, and I have not received any further word from him since.

Mr. O'HIGGINS: I will bear in mind the class of person whom the Deputy thinks ought to be appointed.

AN CEANN COMHAIRLE: It would be possible on Report to improve the matter.

Amendment (20) by Messrs. O'BRIEN and NAGLE: In Sub-section (2), after the word "authorities," to insert the words "and any person serving a sentence of imprisonment or penal servitude imposed on him by a tribunal established by the military authorities."

AN CEANN COMHAIRLE: This amendment follows 16, I think. Amendment 21 next.

Mr. JOHNSON: Do you rule 20 out of order?

AN CEANN COMHAIRLE: Amendment 20 is the same, it appears to me, as amendment 16.

Mr. JOHNSON: Yes, but Amendment 16 referred to a person being detained until an Appeal Council, upon a review of his case, reduced or remitted his sentence. Amendment No. 20 says: "any person detained may in the prescribed manner request that an enquiry into the matter of his detention be made by an Appeal Council." One is the case of the application; the other provides for the continuance of the sentence.

AN CEANN COMHAIRLE: Amendment 16 provided for the review by an Appeal Council of sentences imposed by the Military Authorities. That was rejected. Amendment 20 provides an appeal for the same persons to an Appeal Council.

Mr. JOHNSON: With all respect, Sub-section (3) of Section 3 dealt with the continuation of the sentences until the decision. The amendment proposed that such a decision should come to an end when the tribunal decided to remit sentences. That was rejected but provision was promised for insertion at the next Stage that the sentences should not extend longer than the Act extended.

AN CEANN COMHAIRLE: Was that assurance given?

Mr. O'HIGGINS: No. I think the Deputy is making a mistake. The assurance given was that words would be added to the Section to provide that persons serving sentences—

Mr. JOHNSON: I beg the Minister's pardon; I misread my note. The promise was that so long as it is not expired it will be something of this nature: "until such time as such sentence is reviewed by a competent tribunal." The amendment dealt with the period of a sentence. This amendment proposes to give power to the prisoners to appeal.

AN CEANN COMHAIRLE: "To an Appeal Council established under this Act."

Mr. JOHNSON: Exactly, and I submit that that is not consequent in any way on amendment No. 16.

AN CEANN COMHAIRLE: The question of a tribunal to be set up subsequently is not the same as the question of an Appeal Council to be set up under this Act. Amendment 16 said that "Every person who at the date of the passing of this Act is serving a sentence of imprisonment or penal servitude imposed on him by a tribunal established by the Military Authorities shall, whether he is or is not a person ordinarily subject to military law, continue to serve such sentence so long as it is unexpired, or until an Appeal Council, upon review of his case in manner provided by this Act, reduces or remits

[An Ceann Comhairle.]
the sentence imposed by the tribunal." The question debated on that was whether or not a sentenced prisoner should have an Appeal Council established under this Act. Is that correct?

Mr. JOHNSON: I think that is not correct. I think the question was whether the sentence should continue until it has expired, which may be six months after the passing of the Act. The contention was made that it was indefinite, and the amendment had to do with the indefinite nature of the sentence. That amendment was lost, but there was a promise given that a tribunal would be set up which would review it, but now we are coming to an entirely different proposition. Sub-section 2 says:—"Any person detained in custody under this Act, whether made under an order of an Executive Minister or by the military authorities." And we desire to insert "and any person serving a sentence of imprisonment or penal servitude imposed on him by a tribunal established by the military authorities may request an inquiry into the matter of his detention be made by the Appeal Council." I submit that is an entirely different question from the one respecting the continuation of the sentence until expiry of that sentence.

Mr. O'HIGGINS: The discussion that took place on Amendment 16 made it clear that the acceptance of the amendment would involve a complete change in the character of the tribunal which it is proposed to establish under this Act. There are, as I pointed out, Advisory Departmental Committees, and they are in no sense Courts, still less Courts of Appeal, and, in my opinion, to proceed with the discussion of Amendment No. 20 would be covering precisely the same ground as was covered in the discussion on Amendment No. 16, and to vote on it would be to vote on precisely the same issue.

Mr. JOHNSON: There is a further point. Whatever discussion has been, I do not for a moment admit it was out of order; if it had been we should have been called to order. The issue is whether the amendment now before us is in order, not whether the discussion would be the same discussion. It is whether the amendment to be dis-

cussed is in order, and I submit that it is perfectly in order, notwithstanding what the Minister says about the Appeal Council, for the Council has not yet been set up. It is being set up by the clause we are discussing, and it may be altered radically before the Dáil passes from this section.

CATHAL O'SHANNON: The statement the Minister has just made rather backs the case made by Deputy Johnson, for if one kind of Council were contemplated in Amendment No. 16, and later the Minister gave a definition which would not correspond to the kind of Council contemplated in Amendment No. 16, I submit that this amendment is quite in order, because it is an amendment of a particular kind of Council which has now been defined by the Minister.

AN CEANN COMHAIRLE: I made no suggestion that the discussion of Amendment No. 16 was out of order. The question decided by the vote on Amendment 16 was that certain persons shall not have sentences upon them reviewed by an Appeal Council in manner provided by this Act. If we discussed this amendment we would be asked to take the very same decision, and the amendment, therefore, cannot be discussed, because we cannot discuss and decide the same thing twice on Committee, but if it transpires on a further stage that the Appeal Council is substantially altered, and if any amendment is put up, then the amendment would be decided, and the question of the order of the amendment for the next stage will be decided upon, having consideration to all the relevant facts.

Mr. JOHNSON: With all due deference, might I point out that on Section 3 the Appeal Council had not been reached. It was a tribunal that was referred to in Section 3. The question of an Appeal Council had not been reached or touched at that time. Therefore we were not aware of it in detail.

AN CEANN COMHAIRLE: That is exactly what I have said. If it transpires that there is any necessity for again discussing this matter, which was discussed on Amendment 16, facilities will be provided for that discussion. Facilities cannot be provided now. The

amendment is, consequential on the defeat of Amendment 16, out of order.

Mr. GAVAN DUFFY: I beg to move:

To add to Sub-Section (2) the words, "It shall be lawful for the Governor, or other the person in chief control of any place of detention, to recommend for release any person or persons detained under his charge, and to bring the case of any such person or persons to the notice of an Appeal Council, who shall thereupon enquire into the same."

This amendment deals with a matter of machinery, and I am proposing it on the assumption that the Appeal Section will be very considerably modified before it goes through the Dáil. I will reserve what I want to say about the Appeal Council until the proper stage. The object of the amendment is merely this: that the person who is best qualified on behalf of the Executive to judge of the kind of people who are interned, namely the person in charge of internees, should be in a position to recommend internees for release and to bring their case before the Appeal Council. I think the Dáil will realise that that is a very reasonable suggestion. It has always seemed to me a strange thing that Prison Governors at the present time have no right, no authority, no jurisdiction to recommend prisoners for release. I do not think this amendment needs any commendation. It speaks for itself. I trust the Dáil will agree that it should be lawful for the Governor or any other person in control of a place of detention to recommend for release any person or persons detained under his charge, and to bring the case of any such person or persons to the notice of an Appeal Council, who shall thereupon enquire into the same.

AN LEAS-CHEANN COMHAIRLE

took the Chair at this stage.

Mr. O'HIGGINS: I am not accepting this amendment. It is proposed to give to detained persons the right of appeal to this Council. It is not proposed to authorise any person to act as proxy for them in the matter of such appeal. It is not any part of the official duties of the Governor in such a case to make recommendations with regard to release, and it is not proposed to add that particular function to his official duties. If information is required with regard to pri-

soners it will be asked for from the Governors of such places, and I have no doubt that it will be given. But the amendment proposes to go further and to impose on Governors the duty of recommending persons for release and bringing their cases before the Appeal Council. The amendment contains nothing useful and nothing helpful. If a prisoner wants to appeal to the Council he can surely appeal himself. If he does not want to appeal to the Appeal Council, why is it proposed to put the duty on the Governor to appeal for him?

CATHAL O'SHANNON: I am not very enthusiastic about the amendment, because, as the Minister says, it does give a certain new function to the Governor, and I am not sure that this is a particular one that should be given. Perhaps my lack of enthusiasm for the amendment is due more to the form in which it appears than to the intention behind it. I think, for instance, that nothing should be put in the way of a Governor if he thinks fit to take steps to facilitate, either by exercising persuasion on a prisoner or otherwise, an appeal by that prisoner to the Appeal Council. The Amendment, perhaps, goes a little beyond that. I am not quite sure—I have some doubts about the wording of it—but it seems to me that it goes a little beyond that. On the main question, I think that it should be the duty of the Executive Council and of all authorities to facilitate in every possible way the exercising of the right of appeal, and, in any way which may be considered legitimate, to help the discharge of prisoners. I think that that is a general principle that is adopted at the end, or towards the end, of all periods of trouble, and I should not like the Ministry to be acting on the view that it is not their business, but that it is wholly and entirely the business of the prisoner himself, to take such steps as will help him to get out. I think that the duty of a Government is greater and more extensive than the mere negative duty of permitting a prisoner, if he so desires, to do certain things. I think it is its duty rather to help and facilitate in every way the prisoner doing this. If I can be convinced that the amendment does not give more power than I suggest to the Governor, and that the giving of more power would not mean a radical change in the functions of a Governor

[Cathal O'Shannon.]
then I would be inclined to support the amendment. I do not know that I would do so otherwise.

Mr. WM. O'BRIEN: Would the mover of the amendment tell us whether under it it would be possible for the Governor to bring forward the case of a person to the Appeal Council although that particular person may not wish it to be brought forward? That would seem to be so from the wording of the amendment, and if so it would be very undesirable.

Amendment put and declared lost.

Mr. T. O'CONNELL: I beg to move: To insert after Sub-section (2) a new sub-section as follows:—

"At any inquiry under this section the Appeal Council shall be furnished with the reports or certificates in virtue of which the person whose case is being inquired into is being detained."

Mr. O'HIGGINS: I will accept that amendment.

Amendment put and agreed to.

CATHAL O'SHANNON: On behalf of Deputy Davin I desire to move to insert after Sub-section (2) a new sub-section as follows:—

"Not less than ten days before any inquiry under this section the person whose case is to be inquired into shall be furnished with copies of the reports or certificates in virtue of which he is being detained, and with a statement of any charges or allegations against him which it is proposed to lay before the Appeal Council in justification of his detention."

There is, and always has been, a good case on the part of the prisoner for something of this kind. Although the main objection was really to alien government, practically every one of those who were interned from 1916 onwards objected, and rightly objected, on the ground that it was an alien government, that it had no right to detain them, and also on the other ground, the insufficiency of cause shown. They objected to the summary manner in which their liberty was taken away from them for the time. Many members of this Dáil were in that position. They will remember that on the mere order of a Secretary of State they were arrested, detained and in-

terned. In that case there was an Appeal Council, or an Advisory Council, not exactly of the same nature as this particular one, but one whose function in a broad sense was to hear appeals. Now, when internees or detained persons went before that Court, the Court had plenty of material, and the prisoner or internee had no idea in the wide world of what that material was. There was no means by which the prisoner, if he so desired—many did not take advantage of the privilege or the right at all, and others who went there denied the right of the Court—who went before the Advisory Committee could know what was against him, except that a Secretary of State, under 14B of certain Regulations, had ordered that he should be detained. Now, some of the material came out in the course of questions put by members of the Council to the prisoner. I remember the case of a certain person who was prominent in athletics, and one of the pieces of information that came out, perhaps not against him, but out of the volume of information, was that on a certain date fifteen years previously he had attended a Rugby football match at a certain place. The intention of this amendment is to give the prisoner some chance. On the one side you have the authorities well briefed, and on the other side you have the prisoner completely ignorant of what is going to be used against him, and which will undoubtedly, if the authorities consider it necessary, be brought before the Appeal Council. I think it is fair and reasonable that, before making his appeal to this Council, the prisoner should be entitled and enabled to do what the amendment asks. It is not, I think, too much to ask. As a general rule it is the practice in ordinary common law. It is common even in court-martial, where there is at least a preliminary investigation, at which the prisoner has some means of knowing what exactly the prosecution has against him. Something of that kind, to help the prisoner at the Appeal Council, is wanted—something like what the amendment proposes to give.

Mr. O'HIGGINS: In this amendment as in others we come definitely to the question of the character of these Appeal Councils, and a thing I want Deputies to keep well in mind is that these are not Courts. The whole principle of the Bill

is to give to the Executive, because of an emergency situation, the power to detain persons without trial and without charge. It is a very big and a very drastic power—one that can only be justified, as I say, by an emergency situation which challenges the very existence of the State. One could, as I said yesterday, talk for hours on the soundness of the principle that a person ought to be assumed innocent until proved guilty. That is a good, sound principle. Almost every State in the world, I suppose, recognises and acts upon it. Equally every State will, in time of great stress, in time of great emergency, ask power from its Parliament to depart from it, and ask power to detain citizens on something short of legal proof; and everything short of legal proof is called suspicion, for want of a better word. It may be a moral certainty, but it is something, at any rate, which could not be supported by strict evidence before a Court. These Appeal Councils are set up to give detained persons an opportunity of showing cause why they should not be further detained, and to show cause why suspicion ought not to rest upon them with regard to particular offences. I have promised, by accepting a previous amendment, that the Appeal Councils themselves will be in possession of such reports and information as is at the disposal of the Executive with regard to the prisoner who appears before them. It is not proposed to put such information before the prisoner. On the Report Stage I would undertake to introduce something to this effect: "That a detained person appealing to the Appeal Councils shall be informed of what offence in the Schedule of this Act he is reasonably suspect." That at least will give him the general grounds on which he can proceed to base his case and his appeal. I would not undertake that prisoners will receive a copy of the specific charges or a statement of specific evidence against them. Yesterday, in dealing with this matter, I pointed out that in a certain situation—in a situation of turmoil and revolt and outrage generally—it is very advisable that the Executive should not disclose or give information that might lead to the disclosure of the source of its information with regard to particular prisoners. It might be a question of life and death upon this prisoner obtaining his release. We are asking power in the Bill to arrest and detain persons whose liberty is held to

be prejudicial to the public safety. We will undertake to use that power in the most guarded and conservative fashion, but we cannot allow these Advisory Committees to take on the character of Courts. The prisoner will not be charged. But he can come before the Appeal Council and say: "I see no reason whatsoever why the Executive should think I am a proper person to be detained. I see no reason whatsoever why suspicion should rest upon me with regard to any of these offences, and I adduce here before this Council or Committee certain evidence of my good citizenship, certain references as to character, and so on." But it is not a Court; it is a Committee. We will lay before that Committee the reasons that led to the arrest and detention of the prisoner, and the Committee will hear the prisoner on the question as to why he should not be detained in that fashion. Anything further than that would give to these tribunals the character of Courts. Who would they have to try? Not prisoners. The prisoner is not charged. The whole purport of this Bill is to enable people to be detained without charge or trial, and it seems to me to give any further power than that would constitute a Court of that Committee, and a Court to try the Executive as to its use of the powers given by this Bill. That would be wholly wrong and a wholly anomalous situation. These Councils will be Advisory Departmental Committees. They will have at their disposal, to some extent at all events, the material upon which the arrest and detention of a person is based; they will have in substance the case of the Executive for the detention of that person. They will hear the prisoner on his aspect of the thing, and on the question of why he should not be further detained, and they may examine and cross-question the prisoner, and they will finally make their recommendation to the Executive. But we cannot agree to serve upon the prisoner a specific charge, or to place in his possession the information at our disposal with regard to him. To do so might lead to very grave danger to persons outside.

Mr. JOHNSON: The Minister's statement rather belies the title he is giving to these Councils. He has decided that the Councils should be called Appeal Councils, but he has told us that they are not

[Mr. Johnson.] to be Appeal Councils at all; they are to be Advisory Committees to the Executive Council. I think it would be much better that the Bill should actually state what it is that the Minister's desire was when drafting the Bill, and that the Dail should know what it is agreeing to. I think Deputy FitzGibbon rather commended the provisions of this Bill, especially the Appeal Councils, on the ground that it was some movement towards trial by Court. Now the Minister informs us that they are not to be Appeal Councils, and that they are really not to do anything more than has already been done by Ministers themselves. It has been competent, I am glad to acknowledge, for prisoners to make representation to Ministers, and to ask for a release on certain conditions, and Ministers have decided on cases without any Appeal Councils. They have taken the whole responsibility for detaining or releasing; they may have had Advisory Committees or they may not; they may have already in existence Advisory Committees of whom one person at least on each Committee "has legal knowledge and experience." I assume that they have had such Committees, or at least that they have had some such advice. It seems unnecessary to embody in a Bill of this kind a provision setting up Appeal Council Committees, which one may presume are already in existence, or if they are not in existence that the Ministers have already power to set up. But, according to the Minister, it is quite a misnomer to speak of this as an Appeal Council. They have no power except to advise the Minister, and he has claimed the right to refuse that advice if he wishes. That cannot be called an Appeal Council, and it seems rather to tend towards making little of the legal profession to ask them to appear before, or to sit on, a body called an Appeal Council which, in fact, has no right to decide anything, and which is, in fact, a mere Advisory Committee to the Minister, but whose advice need not be taken. I think the draughtsman of the Bill either misinterpreted the original instructions, or the Minister has retrograded since the instructions were given, or he has forgotten what these instructions were. We ask him to go back and think rather of the intentions of the Bill when he gives the name to his Councils of Appeal

Councils, and not to confine their functions to that of Advisory Committees.

The amendment surely is not an unreasonable one. I understand that the Sankey Committee was frankly and openly an Advisory Committee, but even as an Advisory Committee the provision there was that the Chairman of such Committee must be a High Court Judge. This Committee is to be of less importance than that, inasmuch as all that is required of one of the members is that he "shall be a person of legal knowledge and experience." That is, however, by the way. If one is purporting to give to a prisoner rights or privileges that he has not hitherto had, to appear before a Council, it is surely not enough simply to tell that prisoner of what offence he has been suspected. It is reasonable, I suggest, to give that prisoner some information which he can reply to and answer, and to make some charge in respect of, not merely the offence, but the time and the circumstances in which it is suspected the prisoner was guilty of such an offence. How can a prisoner prove his innocence of a charge that is not made against him? We have been asked to agree to a Bill which purports to give an opportunity to a prisoner to prove his innocence. That reverses the normal practice, which was to ask the prosecutor to prove the prisoner's guilt? But not only are we now asked to give powers, or to impose upon the prisoner the duty of proving his innocence, but he is to prove his innocence of a charge which is not made, and, having proved his innocence of a charge that is not made, and having been able to convince the Appeal Council that he has proved his innocence of a charge that has not been made, the Minister still reserves to himself the right to refuse the advice of that Advisory Committee. However, that is perhaps going a little too fast, because that matter will come up on a later amendment. I would urge it is only reasonable that the cause which the Appeal Council is to inquire into shall not merely be before the Appeal Council, but that the prisoner himself shall have some knowledge of the case that is made against him, and of the charges, and of some of the circumstances upon which the suspicion has been formed. The Appeal Council will have had under the Bill itself certain information, but unless it is provided that the Appeal

Council shall have the duty of examining and cross-examining a prisoner and of inquiring into all the circumstances surrounding the prisoner's activities round about a particular period, unless that duty is mandatory upon the Appeal Council, the prisoner's opportunities of proving his innocence may be nil, because all he is to be informed of is the offence, in a long series of offences, of which he is suspected of being guilty. The prisoner may be suspected of assisting in, or encouraging, the commission of one of many offences. He has been arrested and detained on that charge, and that is all that is to be told to him. He appears before a Court, and has to prove to that Court that he is innocent of assisting in the commission of one or of a dozen or of twenty different offences. I would urge the Minister to think more seriously of the responsibility he is putting upon the Appeal Council, and of how much easier it would be for that Council to inquire into a case if the prisoner is given some knowledge of the case that is made against him.

Mr. DAVIN: I desire to support this amendment. I take it the intention of this Bill will be, particularly if the amendment to this section is properly applied, to reduce to a minimum the number of people who are in custody on suspicion or on definite charges. Section 2 of the Bill says: "Any person detained in custody under this Act, whether under an order of the Executive Minister or by the military authorities, may in the prescribed manner request that an inquiry into the matter of his detention be made by an Appeal Council." I have always tried to look at this question from the point of view that there are several classes of people at present detained. There are people who, perhaps from high political motives, may have answered the call of leaders, believing that they were doing right. The number of people who responded to such an appeal, and who had previously done anything during the period of the Anglo-Irish war, may be comparatively small, taking into consideration the very large numbers of people at present detained. I take it that that class of prisoner would be reluctant to make an appeal to any tribunal set up under this or any other section of the Bill for the purpose of obtaining his release. But there is a class of prisoner, the class which has been in-

terned and is being detained on suspicion, which would undoubtedly take advantage of whatever Appeal Tribunal would be set up, and I think it would be an encouragement to that class of prisoner to appeal to the tribunal if he was in possession of the actual charge on which he is being detained. In dealing with this matter of detention and the question of releases the Government and everybody who has an interest in the prisoners, or in the proper administration of the Government, must look at the question not from the point of view of the individual who has a grievance because he feels he is wrongly detained on suspicion. If, for the sake of argument, a brother of the Minister himself was detained on suspicion and interned, and that the Minister and those of his family connections knew quite well that there was no reason, from their knowledge of his movements, why he should be detained, we can see that the opposition to the Government goes right through the family and affects a far greater number than the individual who is personally concerned. I think that is one of the reasons why an amendment of this kind should be accepted in order to minimise the opposition to the Government, and to reduce to a minimum a number of people who are detained or interned longer, at any rate, than they should be.

CATHAL O'SHANNON: Speaking a while ago, the Minister said there would be danger, if this amendment were accepted, or if anything like this were done, that the sources of the Government's information might be disclosed, to the personal danger of certain people, perhaps, as well as to the danger of the State. I would not suggest that the sources of information should be disclosed in such a way as to justify the Ministry's fears. Not at all. The intention of the amendment could be quite well achieved without going to the length which the Minister seems to contemplate. The Minister says that the prisoner appealing will be informed of which of the offences mentioned in the Schedule he is suspected.

Mr. O'HIGGINS: As a matter of practice he will probably be informed of a good deal more. I want to draw a distinction between practice and a right. If you set down here that the prisoner shall receive a copy of the charge and all the

[Mr. O'Higgins.]

evidence against him, you make a Court of this Appeal Council, and you give the prisoner an absolute right to be charged and tried. In point of fact, this is an Appeal Council to hear the prisoner on the question as to why he should not be further detained, and as a matter of practice the prisoner will receive all the information that it is considered right or safe to give him on the question of the reason why he is detained. If you set it down here in the Bill, you would make it a matter of absolute right, and you would make of the Advisory Council a Court, and that is where the objection lies.

CATHAL O'SHANNON: That is a very important statement of the Minister as to practice. It was the point that I was about to raise. But if we had more information really about the Council we would not be working so much in the dark. I had taken a note to raise the question of the procedure of the Court. The section does not prescribe the procedure of the Court. The Minister now says that the Executive authority in dealing with the Appeal Council will adopt a certain practice. I presume that we can accept the word of the Minister on that. But he may not be the Minister who will exercise the powers given in this at all. For that reason I think it is necessary that there should be some better definition in the section of the rights or, if you like to put it, the privileges of the prisoners. Even if a prisoner is informed that he is suspected of one of these offences, and he is told something more than that, I wonder whether he is going to be told that at a certain time or on a certain occasion a certain one of these offences was committed, and that he was suspected of that? The Minister might say that that may disclose information which he does not want to be disclosed, and which he thinks it would be dangerous to disclose. But the offences, as given down here, are so wide that, taken not as charges, but as matters for suspicion, it would be extremely difficult for any prisoner, unless he has a great deal of information—more than I think is contemplated—to make a case. Some Deputies will remember that formerly one of the grounds on which people were interned was that they were associated with certain other people who were suspected

of acting or being about to act—the Deputies will remember the rest of the phraseology. I know a Deputy who is a personal friend of a certain man in his town. That friend was deported and interned along with that particular Deputy. He was kept in detention even after the appeal to the Sankey Committee, although the Deputy's friend had not had, act or part in any particular activity in the particular Western town to which he belonged. He was suspected, presumably, because of his association with this Deputy. Now, the present situation lends itself to that kind of thing. If, in a case like that, that internee had known the real grounds on which he was suspected, it might have been possible for him to make a case at the Appeal Council. He did not, and he was not able to make a case, and it was extremely difficult for anyone to make a case. Take, for instance, Section 12: "Aiding, abetting, assisting in or encouraging." Take that in conjunction with 10 and 11. It might be claimed that the Appeal Council might feel it was justified in detaining a prisoner because he was associated with somebody whom the Appeal Council had already convinced itself was reasonably suspected of some one of these offences. I think there is a case, if there is not too wide an interpretation given to the amendment, for the acceptance of the amendment, and that it would not go so far in the direction of making a Court with actual powers of release and anything like that, as the Minister seems to think. I will ask the Minister to accept it.

Mr. LYONS: I support this amendment. I think it is only right that the prisoner that you are about to place before a tribunal of justice, or before the Appeal Council, should know the exact nature of what he is supposed to be charged with, and that he should know also every particle of evidence that was in your possession. I think it would be only fair that you should furnish the prisoner with such evidence, so that he may be able to put forward any evidence which he himself possessed or could offer to the Court with a view to proving his innocence.

The Minister has already said the prisoner would be brought before the Appeal Council. The amendment goes a little further and states "not less than ten

days before any enquiry under this Section, a person whose case is to be enquired into shall be furnished with copies of the reports or certificates in virtue of which he is being detained." When you have such a large number of prisoners at the present moment, not taking into account the number likely to be interned under this new Act, it is only fair that those persons should get an opportunity of proving their innocence. If you take a man and detain him behind prison walls for a fortnight, three weeks, or a month, and at the end of that time you say to him "You are to be placed on trial to-morrow," it is hardly fair that he should not be given some particulars of the charge preferred against him. If you give him only 24 hours' notice, the man has no chance of getting together any evidence so as to contradict the evidence brought against him by the prosecuting solicitor, or whoever may be in charge on behalf of the Minister for Home Affairs. It is only right that the prisoner should be placed in such a position that he shall have furnished to him the evidence to be brought forward against him.

Mr. O'HIGGINS: As a matter of explanation, I would like to say it is not a trial. There is no charge. A person whose liberty is interfered with under the provisions of the Bill will be told there is an Advisory Committee, an Appeal Council, before which he may appear if he considers that he can show cause why he should not be further detained, and why, in fact, he never should have been arrested. In other words, he may be told, "If you feel you are innocent, you can come before a body of reasonable men and convince them a mistake has been made in your case." There is no use in the Deputy keeping on using such words as trial, and charges, and so on, after I have explained very fully that it is not a trial and this body will not be a Court. We are very emphatic on that. The whole principle of the Bill is to entitle the Executive, in view of a special emergency situation, to detain people without trial.

Mr. LYONS: That is all the more reason why a person who is to be brought forward—

Mr. O'HIGGINS: He is not to be brought forward; he is to come forward.

Mr. LYONS: You have him in your custody, and if he is not a prisoner, why not release him without setting up any Appeal Council that he is to go before? If what the Minister states is correct, there is all the more reason why the prisoner should be previously furnished with particulars. Take, for example, that I am the prisoner. If I am the victim that you may choose to lay your claw upon, just like a hawk watching for an unfortunate little swallow who might happen to be around, I should have some opportunity of defending myself. Just like the hawk, you and your associates are watching to see what victim may come into your grasp, so that you could sentence that victim to a term, even if it were only a few days, in order that you can show your authority. The explanation of the Minister for Home Affairs proves more clearly why the amendment should be accepted. It is only fair that a prisoner should be given an opportunity to show why he should not be detained, and for this purpose he should be supplied with copies of the evidence brought against him by the Minister for Home Affairs or his servants. It would be only right to furnish him with that evidence ten days before he is to be brought forward. Then he could be in a position to tell you why you must release him. If an innocent man is interned he cannot get an opportunity of explaining why he had been arrested. He is simply told he is arrested on suspicion; he has no knowledge of the evidence that is in the possession of his captors. He is just like a little bird in a cage. The wires are all round him. In this case the place of the wires is taken by the associates of the Minister for Home Affairs. They are so closely around that it is impossible for him to get out unless the Minister opens some avenue, and, in my opinion, the best way to open that avenue is to accept this amendment.

Amendment put.

The Dáil divided: Tá, 13; Níl, 39.

Tá.

Tomás de Nógla.
Riobárd Ó D'aghaidh.
Liam de Róiste.
Tomás Mac Eoin.
Liam Ó Briain.
Tomás Ó Conaill.
Aodh Ó Cúlacháin.

Séamus Éabhróid.
Liam Ó Daimhín.
Seán Ó Laidhin.
Cathal Ó Seánáin.
Domhnaill Ó Muirgheasa.
Domhnaill Ó Ceallacháin.

Níl.

Donchadh Ó Guaire.
Gearóid Ó Súilleabháin.
Seán Ó Maolruaidh.
Micheál Ó hAonghusa.
Domhnaill Ó Mocháin.
Séamus Breathnach.
Peadar Mac n' Bháird.
Darghal Fíges.
Deasmhumhain Mac Gearailt.
Micheál de Duram.
Seán Mac Garaidh.
Pilib Mac Cosgair.
Domhnaill Mac Cárthaigh.
Maolmhuire Mac Eochadha.
Earnán Altún.
Sir Séamus Craig.
Gearóid Mac Giobáin.
Liam Thrift.
Eoin Mac Néill.
Liam Mac Aonghusa.

Seosamh Ó Faoileacháin.
Seoirse Mac Niocaill.
Fionán Ó Loingsigh.
Séamus Ó Cruadhlaoich.
Cristóir Ó Broin.
Caoimhghin Ó hUigín.
Próinsias Bulfin.
Séamus Ó Dóláin.
Seán Mac Eoin.
Próinsias Mac Aonghusa.
Éamon Ó Dúgáin.
Peadar Ó hAodha.
Séamus Ó Murchadha.
Seosamh Mac Giolla Bhrighde.
Liam Mac Sioghaid.
Tomás Ó Domhnaill.
Earnán de Blaghd.
Uinseann de Faoite.
Séamus de Burea.

Amendment declared lost.

Mr. LYONS: I propose the following amendment:—To insert after Sub-section (2) a new sub-section as follows:—

“ Every person whose case is inquired into by an Appeal Council shall be afforded reasonable facilities to obtain legal advice and assistance before the inquiry is held, and may appear before the Appeal Council in person and/or by counsel or solicitor or a friend on his behalf.”

I am sure that the Minister in charge of this Bill cannot possibly find an argument to offer against this amendment, or that he does not want to deny the right of a person whose case is to be inquired into of getting in touch with a solicitor or appearing in person before the tribunals. If this amendment is accepted it will certainly go a good way to facilitate some of those persons who will be brought before these Councils. Take, for example, the person who is detained in custody. If the solicitor is notified twenty-four hours before that person is to be taken forward to give an account of himself the whole conversation be-

tween the solicitor and client is overheard by a warder or soldier standing by. There is many a thing to be said probably by a solicitor to his client, or a client to his solicitor, which they do not want the soldier, policeman or warder to hear. Furthermore, I am sure the Minister has already explained that the prisoner will appear in person. If so, we can take it for granted that that portion of the amendment is already accepted. I do not think that it is possible for any honest, straightforward and just-minded, thinking man to deny the right of any person whom he may have in his power to procure some legal aid so that he may be able to prove his innocence of any of the charges that have been brought against him. I know it is the duty of the Government to prove a man guilty. Under this Bill it lies with the person himself to prove that he is innocent. If this amendment is accepted you shall give a person whom you have in your power an opportunity of appearing personally before the Appeal Council and of hearing every particle of evidence that is brought against him. You will

be also facilitating him by allowing his solicitor to visit him without the aid of one of your soldiers, warders or policemen.

Surely we must for a moment cast our minds back. I am sure every Deputy in this Dáil can well recollect the human cry that went out from the nation that no person could possibly have a conversation with his solicitor simply because there was somebody always standing by to hear the conversation. All the words pronounced by the solicitor to the client or the client to the solicitor were known by the people who were directed to prove against the man a charge of which he was not guilty. I will ask the Minister to accept this amendment. I would like, of course, that the amendment should be accepted, not alone because it may help some of the prisoners already behind the prison walls, but because it will also help some of those persons that are still at large and honestly watching and waiting for this Bill to get through the Dáil, so that the hawk of the Saorstát might not be able to lay its claw upon its prey and put it inside. The hawk of the Saorstát, to my mind, is a particular class of bird out listening to and watching everything people have to say, and under this Bill persons will be able to give a certain amount of information about many innocent men and women who may have to appear before this Appeal Council. It is for that purpose that I ask the Minister to accept this amendment giving those persons whose cases are to be inquired into by the Appeal Council an opportunity to get legal aid, legal assistance, and appear before the Council in person, so that they may be able to prove their innocence and be set free, and, above all things, that they shall not be kept at the expense of the ratepayers.

Mr. O'HIGGINS: I am not accepting this amendment, and my reasons for refusing it are simply the reasons I have given in connection with previous amendments that this body will not be a Court before which prisoners will be tried on a specific charge. It is a body set up to act as much in the interest of the detained persons as in the interest of the State. It will be substantially in possession of the Executive side of the question. With that before it and at its disposal, it will proceed to hear the prisoner on the question of why he should not be further

detained. There will be nothing technical about it. It is a body of one legal man and two sensible laymen, and hearing two aspects of the question, they will come to a conclusion and make their recommendation to the Minister. To surround this thing with the trappings and procedure of a Court would be to convey a doubly wrong impression, as I have remarked before. There is a very special situation. Deputies, I think, will not question that, and in that situation the Executive asks Parliament, as it is its duty to ask Parliament, for all the powers which it thinks necessary to deal adequately with that situation. We ask for the very special power of interfering with the liberty of citizens to the extent of detaining them for a period without trial or without making specific charges against them.

Deputies must know that people have been active against the State and against the citizens for ten months who are now detained, and against whom it would be impossible to prove a specific charge in Court. It is simply common knowledge in that vague way that they were leaders of a column perhaps in an area, they were known to have been connected with particular acts of outrage and destruction, but it would be a very different thing to prove that in Court. There would be the difficulty of securing evidence. There is far more physical courage in this country than moral courage, and in a time like the present people are unwilling to come forward and give evidence with regard to offences. We are asking power to detain persons without trial for a period of six months. This body, the Appeal Council, is not a Court, but it is a body set up to deal between the detained person and the Executive, lest mistakes should occur. Mistakes conceivably might occur.

Mr. DAVIN: Hear, hear.

Mr. O'HIGGINS: And the prisoner who feels that, can come before a body of sensible men and put his case to them, give his references, and so on, and the mistake can be rectified. He will get that opportunity. But this is not a Court, and we do not propose to have solicitors appearing on behalf of prisoners in connection with it. If a prisoner is an honest man, with just that average share of intelligence which a normal man has, he can appear before this body and put his

[Mr. O'Higgins.]

case perhaps better than any subtle lawyer could put it, and the very plainness and bluntness and frankness with which he can put his own case would probably be the biggest factor in the minds of this advisory body. I cannot accept the Deputy's amendment, and I stress the point that the members of this Council will be there as much in the interests of the persons who come before them as in the interests of the Executive, and having heard what they have to say for themselves, and weighing that with what has been put at their disposal by the Executive as the reasons for the arrest and detention of the persons who come before them, they will discuss matters between themselves, and come to a conclusion and make their recommendation. That is the conception of the Appeal Council.

Mr. DAVIN: I thought when listening to the speech of Deputy Lyons that if his arguments were not sufficient to convince the Minister as to the necessity for this amendment that, at least, the tone of his voice would have struck a very weak chord in the Minister's heart, and would have persuaded him to take a view contrary to the one he has now expressed. I, at least, expected that every Deputy with a legal training would have stood up to back up an amendment of this kind. Paragraph 1 of Clause 4 states "as soon as may be after the passing of this Act there shall be established by the Executive Minister one or more Appeal Councils consisting of not less than three members, of whom one shall be a person certified by the Attorney-General to have legal knowledge and experience."

What is the meaning of having on this Tribunal, if there is nothing technical about its conduct, a person who is certified by the Attorney-General to have legal knowledge and experience? It is either a Court or it is not a Court, and if it be necessary to have a legal gentleman whose knowledge of legal matters cannot be disputed, I think it is very desirable, in the interest of the prisoner, that he should have some legal advice, or somebody to deal with that particular gentleman who may be acting on behalf of the State. I take it that the presence of the legal gentleman on this Court, acting in company with two other commonsense individuals, will be for the

purpose of determining any legal quibble that may arise with regard to the conduct of the Court or any argument that may be put up by the prisoner. The prisoner, no matter how intelligent he might be, would not be in a Court of this kind—and it is a Court, there is no use in putting any other complexion upon it, once you have a legal gentleman there on the one side—

Mr. O'HIGGINS: He is not on the one side. That is where the Deputy is making a mistake. He is acting between the two parties—the Executive and the person whom the Executive has detained.

Mr. LYONS: Who is paying him?

Mr. DAVIN: He is certified by the Attorney-General to have legal knowledge and experience, and he is there, I presume, first in the interests of the State and appointed by the State. It is for that reason, and that one alone, that I think this amendment should be open to the consideration or reconsideration of the Minister. No matter how intelligent a prisoner may be, he will not be able to answer or meet the arguments of any legal man. In the interests of the prisoner who recognises this particular Court, and I take it every prisoner is not prepared to do that, I think the Minister might reasonably accept this amendment. The Minister also seems to harp, in every argument he puts up against any amendment from this side, on the fact that these people were active against the State and against the citizens. I am sure the Minister, even in his wildest moments, would not say that every man now detained in prison has been active against the State and its citizens. This Bill makes provision for detention of men on suspicion on any ground, good or otherwise, of aiding and abetting. Deputy Cathal O'Shannon gave a case with regard to a person in the West of Ireland who, because he was associating with a Deputy during the troubled period—

Mr. O'HIGGINS: Long horns!

CATHAL O'SHANNON: I could give an instance nearer home.

Mr. DAVIN: He was arrested, and in spite of an application to the Committee,

which was dealing with cases of that kind, he was still detained. When the whole situation is reviewed, when this trouble is all over, and when all those at present in prison are released, I think it will be found that the action of the Government in imprisoning men on suspicion will have done nothing except throw a cloak of patriotism over a large number of men who did not deserve it—who did nothing for the country, for the Republic, or for anything else. It is recognised that any man who was imprisoned during the British regime in this country, whether on suspicion or for the commission of a political offence, came out a hero. Under an Irish Administration I do not think the Government should be prepared to encourage that. By refusing to give a prisoner an opportunity to prove his innocence they are furnishing him with a pretence of patriotism, when perhaps he has no right to such a cloak.

Mr. MORRISSEY: I would like to support this amendment, which I think the Minister should accept. There is nothing in it that I can see which would invest this Court of Appeal with the trappings of an ordinary Court. It simply says that the prisoner shall have the right to consult counsel or a solicitor. The Minister says the prisoners are all of average intelligence. "Average intelligence" is rather a vague term. The Minister knows as well as I do that there are men in prison who would not be able to put their case before a Court. As the last speaker said, there are innocent men in prison who may find it difficult to prove their innocence. If those prisoners who are innocent got an opportunity of consulting a solicitor and stating the reasons to him as to why they should be released, and if he were allowed to put those reasons before the Court, I think it would be only fair to the prisoner, especially when the President of the Court will himself be a legal gentleman.

Mr. O'CALLAGHAN: I would ask the Minister to bear in mind the case of a young country man or a young country boy taken up here and interned. That man will not go before a tribunal; and even if he did, he would not be able to put his case as it should be put. We all know that all country men are more or less nervous when going before a gentleman looking at them, perhaps,

through an eye-glass. If that man had the assistance of a legal gentleman he would be able to make a very good case. In fact, I am sure that if the Minister read the case he would let him out at once.

Mr. LYONS: After hearing the argument put forward by the Minister against this amendment, I can assure the Dáil that it has not in the least convinced me. I am well aware that the members of the Appeal Council may be there, as the Minister stated, as much on behalf of the prisoner as of the Government, but I would ask the Dáil to remember that the members of this Council will be employees. I am sure that when their salaries come out of the Exchequer of the Saorstát and are given to them, probably by the would-be boss or will-be boss, the Minister for Home Affairs—

Mr. O'HIGGINS: The Deputy seems to be assuming that we want to keep innocent men in internment. We do not. The Deputy is assuming too much when he assumes any hostility or juxtaposition on our part to innocent men.

Mr. LYONS: I am not assuming any hostility on your behalf against innocent men. It is the Minister himself who is assuming hostility. By not accepting that amendment he is proving that his intentions and the intentions of the Council are to intern and detain innocent men. As some of my colleagues have already explained, some men have not the courage to go before the Appeal Council. Some men may be nerve-struck owing to all the terrors that have taken place since 1921. If people who have lost their nerve are arrested on suspicion, and are not allowed to get legal advice to put their cases before the Appeal Council, I think it is ridiculous, absolutely ridiculous. If you have a charge against a person, you should give him an opportunity of getting legal aid. The Minister has not even yet stated whether the person concerned will be allowed to appear before the Appeal Council in person. Furthermore, I heard the Minister say that this Bill gave power to arrest, detain, and intern people without charge or trial for six months. The Minister may have made a mistake in using those words a few moments ago when he was answering me on this amendment. He made

[Mr. Lyons.] use of the words, "The Bill gives power to arrest and detain people without charge or trial for six months," although it says here in Section 2: "It shall be lawful for any responsible officer to arrest and detain in custody for any period not exceeding one week"—that is what the clause says—one week.

Professor MacNEILL: The Deputy is out of order.

AN LEAS-CHEANN COMHAIRLE: The Deputy must confine himself to the amendment on the Paper.

Mr. LYONS: I am confining myself to the amendment on the Paper. I made use of the same words that the Minister used in arguing against this amendment, and if the Minister was allowed to proceed when he was out of order, then I think the same thing should apply to the Deputy. I would like the Minister to explain whether he really meant those words.

Professor MacNEILL: I submit that the Deputy is out of order. I am trying to protect the Deputy and keep him in order, although it is not my duty.

AN LEAS-CHEANN COMHAIRLE: The Deputy cannot go back and discuss a section already passed.

Mr. LYONS: Surely the Minister fully realises the necessity there is for giving a prisoner an opportunity of contradicting any erroneous charges there may be against him. I would ask the Dáil to remember that the events of the past few years have seriously affected the nerves of a great many people. Deputies should also realise the strength of the arm of the law. You place the strength of the law against the weak arm of an individual. Surely he has not the strength or the full courage to stand against the mighty arm of the law without, at least, getting a little protection. He must have some protection, and the protection is given to him in this amendment. I fail to see why the Minister rejected it when he had already accepted the principle of it, at least, in a previous amendment, when he stated that the prisoner would appear before the Appeal Council in person.

AN CEANN COMHAIRLE resumed the Chair at this stage.

Mr. JOHNSON: I was hopeful that the Minister would meet this amendment, at least, part of the way. The case that he has made, in resisting the proposal that facilities should be given to a prisoner who appears before the Appeal Council to have legal advice, is that he does not desire—that it is not the intention—that this appearance before the Appeal Council will be the same as an appearance before a tribunal trying a case, and, consistent with that intention, he says that he does not desire that the prisoner making the appeal shall be confronted with all the legal trappings of a Court, and have around him, to speak for him, solicitors or lawyers, and to treat the court as if it were a court belonging to and siding with the Government. But I think there is force in the argument made by Deputies Davin and Lyons, that many prisoners are not of a capacity, not fitted to make the best of their own case in a court, to put it before even a body of three gentlemen friendly disposed towards the prisoner. One can imagine the session. There is a private room where the three members of the Appeal Council are meeting with the papers before them. I will assume that nobody else is present but the prisoner and the three persons constituting the court, and that they and the prisoner are on friendly terms. I think there is no one but has had experience of an individual appearing before unknown people and having to state his case. Deputy Burke, for instance, will recognise what I am suggesting, that a young man, or an old man, who perhaps has not had many associations with what he might call the gentry, will go into a room and be asked questions, and he is immediately off his guard. He does not know what he is doing. He is not merely off his guard, but his wits are not with him. He is not at home. He feels he is before a tribunal, although he may not be, in the Minister's view, and he cannot state his case. Now, even if he had a non-legal friend, somebody that he could feel was a support to him, a moral support to help in making his case, the case might be very much more effective, simply by the fact that he had his wits about him and he knew that he was not before a court which was out to frighten him and perhaps put him in jail for ten years. I suggest that the case for the next friend, even

if he is not a lawyer, to be present with the prisoner when he appears before this council is a very fair suggestion, and not at all an unreasonable one. But, even supposing that that, reasonable as it is, cannot be conceded, surely it is not unreasonable to ask that that prisoner, who knows that he is going to appear before such a tribunal, shall be able to get the assistance and the confidence that a solicitor, or a counsel, or a next friend could give him before he appears before that tribunal. Surely that is not an exceptional or extravagant request that will meet the Minister's objection that he does not want this council to take upon itself the character of a court? There will be no need for that objection to be stressed at all if the prisoner has an opportunity to confer, either with a solicitor or a layman before he appears before the tribunal. He, at least, has the feeling that there is somebody else in the world who is thinking about him besides the prisoners, on the one hand, and the tribunal on the other. I do not think there is anything extravagant in that request, and I would ask the Minister if he cannot meet the desires of the Deputy who moved it in some way, so that the prisoner shall have some facilities for conferring with a solicitor or a friend, either before or at the hearing of the case.

CATHAL O'SHANNON: Let me reinforce Deputy Johnson's argument. One Deputy's argument was that there would be a difficulty, perhaps through sensitiveness or something like that, which many prisoners find themselves in when they come before any tribunal like this. I have in mind an instance of one who occupies a very responsible office in the State, a comparatively young man, who had to go before a tribunal like this. He was much younger then, of course, little more than a boy, a boy, though, of more than ordinary intelligence, and whose career since then has shown that he had a brilliancy in certain directions that has been a very great service to the State. He did not know when he was called up before this tribunal what course he ought to take. He did not know what he ought to do. He had no idea of what his position was, and he admitted quite frankly to those of us who happened to be associated with him then that he did not know what to do when he went in.

He had no one to advise or direct him, and, of course, the only thing he could do was to turn to those who happened to be prisoners with him. I would urge strongly that the Minister should not leave consultation merely to fellow-prisoners of a man like that, because the purpose that he wants served by the Appeal Council may be defeated by wrongful advice, perhaps wilfully and deliberately given, to prisoners by their fellow-prisoners who take a certain line inside a Court that would not be to the good of the State or the prisoner or anything else. That has happened before, I know, but in quite different circumstances. The circumstances at present ought to be taken into account, and a prisoner should not be left to the mercy of the suggestion merely of his fellow-prisoners, but should have opportunities of consultation and advice with somebody else in whom he would have confidence, and who would give more independent and unprejudiced advice than his fellow-prisoners.

Mr. O'CALLAGHAN: The Minister has mentioned that the majority of the prisoners arrested under this Bill have been arrested on suspicion.

Mr. O'HIGGINS: No prisoners have been arrested under this Bill yet.

Mr. O'CALLAGHAN: They will be, or dealt with under it, and it is to enable people to dispel this suspicion, to enable them to prove that they are innocent, that we are asking him to accept this amendment. Surely that is not too much?

Mr. O'HIGGINS: I regret I cannot make any concession in this matter. It is what a prisoner has to say for himself, and not what his wife, brother or sister has to say for him, we are anxious to get at, and we have set up this body as a medium for his saying that to the Government. That is about what it amounts to. This body is a buffer one between the two parties, the Executive and the person whom the Executive believes it to be necessary to detain for a period in the public safety. He can go before this Council, and he can say what he wants to say for himself. He may endeavour to show that he is not the kind of person that it is at all necessary in the public safety to detain, that he was not connected with outrage or lawlessness generally, or with, possibly, the particu-

[Mr. O'Higgins.]

lar act of outrage that he may be told he is believed to have been connected with. But it is what he has to say for himself, not what some solicitor thinks he might stretch a point and say for him, and not what his wife or next relative may say for him or advise him to say, but simply what the man has to say himself to the Government through this body.

Mr. O'CALLAGHAN: But what about what his enemies, who brought him into that position, will say about him? It is to combat that we are trying.

Mr. O'HIGGINS: He has got to make an impression on three impartial men sitting there to hear what he has to say as to why he should no longer be detained, or as to why he should not have been arrested. You may take it, if he puts up a reasonable case, and that at least a recommendation would come along, that the case should be further and very closely scrutinised and inquired into, and there would be of course the possibility of there coming from that body a recommendation that that man should be released. There are amendments that that recommendation should be absolutely mandatory. That would give this tribunal the complexion of a Court. There is no reason to believe that the recommendations of that body would be lightly overruled just because it is not a Court. We do not propose to make these recommendations binding on the Executive.

CATHAL O'SHANNON: That would be all very well if we had some experience of the manner in which the Appeal Council was carrying out its duty. We have not had so far that experience. It is all very well for the Minister to say that what they want is to hear what the man has to say for himself. But before any such tribunal, I submit that a good deal will depend on the form in which the man says what he has got to say for himself. Many a prisoner may have a great deal to say for himself, but he may not, for one reason or another, be able to put it in the form most effective and most appealing to the judgment of the tribunal. He may have a great deal to say, and yet may not be able to assemble the different parts of what he has to say in such a way that he would present a

reasoned case to a tribunal. I think that the Minister can see that there is point in that. One of the extraordinary things to some of us who had experience of a somewhat similar tribunal was that certain people, whom we knew to be well worth, at all events, an unfavourable decision from the tribunal, were released on the advice of that tribunal; but a great many more, who were much more notoriously to very many of us completely innocent—many were absolutely innocent of any kind of offence except the kind that I mentioned a while ago in dealing with another amendment—were detained for the full duration of detention at that time. Some of us made a rough-and-ready examination to try and arrive at the reasons for this, and we came to two or three conclusions. One was that sometimes a Council might be more, not exactly "getatable," but more lenient or more generous on some days than other days for some reason or another. Perhaps it was because its personnel changed slightly from time to time. But one of the conclusions we came to that seemed to go some distance to explain the decisions of the Court was that certain people, to our knowledge, were able to put their case in a very good form, and in such a way that they were able to put up a convincing case, while others who had a much better case were not able to put their case in a convincing form. There is much more in the form than the Minister seems inclined to agree to, and I would ask him to reconsider that particular point because it is of importance. Many a good case is spoiled by the form in which it is put.

Mr. DAVIN: There is another reason, perhaps a reason which concerns the Minister himself or whatever other Minister will be called on to review the report of this tribunal, as to why these cases should be thoroughly inquired into. The clause stipulates that whatever decision the Appeal Tribunal may arrive at is subject to review by the Executive Minister. It says: "... having considered the report of such Council, is of opinion that the public safety would be endangered by such person being set at liberty." If the Minister, by accepting this amendment, agrees that the prisoner who is trying to prove his innocence, and who if things were right, should be treated the other way about, allows a legal repre-

sentative to appear on behalf of the prisoner, or, on the other hand, acting on behalf of the Government—as I presume they are appointing an individual—there will be two legal men. I take it, in such circumstances, whatever legal quibbles would be at stake or raised by the Council or Appeal Court, would be thrashed out to a conclusion, and the Minister would thereby be relieved of the responsibility

or trouble of reviewing the case that would have been thrashed out from the legal and from every other point of view concerning the detention of the prisoner. I think that is an additional reason why the Minister should not persist in refusing to accept an amendment of this kind.

Amendment put.

The Dáil divided: Tá 13; Níl, 31.

Tá.

Tomás de Nógla.
Riobárd Ó Deaghaidh.
Tomás Mac Eoin.
Seoirse Ghabháin Uí Dubhthaigh.
Liam Ó Briain.
Tomás Ó Conaill.
Aodh Ó Cúlacháin.

Séamus Éabhróid.
Liam Ó Daimhín.
Seán Ó Laidhín.
Cathal Ó Seanáin.
Domhnall Ó Muirgheasa.
Domhnall Ó Ceallacháin.

Ní.

Seán Ó Maolruaidh.
Micheál Ó hAonghusa.
Domhnall Ó Mocháin.
Séamus Breathnach.
Pádraig Mac Ualghaigh.
Deasamhain Mac Gearailt.
Peadar Mac a' Bháird.
Micheál de Duram.
Seán Mac Garaidh.
Pilib Mac Cosgair.
Domhnall Mac Cárthaigh.
Eoin Mac Níill.
Liam Mac Aonghusa.
Pádraic Ó Máille.
Seosamh Ó Faioleacháin.
Seoirse Mac Niocaill.

Piarras Béaslaí.
Fionán Ó Loingsigh.
Séamus Ó Cruadhlaoidh.
Cristóir Ó Broin.
Caoimhghín Ó hUigín.
Próinsias Bulfin.
Séamus Ó Dóláin.
Eamon Ó Dúgáin.
Peadar Ó hAodha.
Séamus Ó Murchadha.
Liam Mac Sioghaird.
Tomás Ó Domhnaill.
Earnán de Blaghd.
Uinseann de Faolte.
Séamus de Burea.

Amendment lost.

Mr. DAVIN: I would suggest, provided the suggestion meets with general approval, that there should be a short adjournment of an hour. It is quite evident that the Minister who is in charge of the Bill, and those of us who are responsible for amendments, are not in a position to leave our places, and therefore I suggest such an adjournment.

Mr. O'HIGGINS: There is no agreement on that.

Mr. GAVAN DUFFY: Amendment 25 is not being moved.

Mr. JOHNSON: I beg to move:—

“In Sub-section (3) to delete all words from the word ‘and,’ line 56, page 3, to the word ‘liberty,’ inclusive, line 7, page 4, and to substitute therefor the words: ‘and such Council

has reported either (a) that the reasons given for the detention of such person are not adequate to justify his detention without trial; or (b) that, having regard to the period during which such person has already been detained, there is not sufficient reason for continuing his detention, then, immediately upon receipt of the report of the Appeal Council, the Executive Minister shall cause such a person to be set at liberty.’ ”

The object of the Appeal Council in this case would be not even yet to act as a Court, but to consider the case that has been put forward by the Minister, the grounds of suspicion, the grounds of detention, and presumably to examine the prisoner in his own defence. Having satisfied themselves that there is no case for further detention, they shall report

[Mr. Johnson.]

such fact that there are no grounds for further detention, or that, supposing there were originally some grounds for detention, that the grounds are so trifling and that the circumstances have changed in such a way as to make detention no longer reasonable. On receipt of such a report the Executive Minister shall cause such a person to be set at liberty. If the Appeal Council is to be composed of three persons, men or women, one of whom shall have had legal experience, and is to have the evidence which originally justified in the mind of the Minister the detention, and an opportunity of hearing what the prisoner had to say for himself, and if that Council has no grounds for recommending continued detention, or, on the other hand, has positive grounds for recommending release, it seems reasonable that such a person should be released. The Minister has described this Council as being something in the nature of a go-between between the Executive and the prisoner. I presume he did not mean to suggest that it was merely a channel of communication, but that it was a body which he intended would have at least common-sense and discretion, and would be capable of forming a judgment as to whether further detention without trial was justifiable. The Minister proposes to reserve to himself the right to say whether the tribunal he has set up is a competent one. He proposes to reserve to himself the right of saying whether he was wise or unwise in setting up that Council. I am going to presume, and I ask the Dáil to presume, that the Minister, when he sets up such a Council, will have satisfied himself that the people constituting that Council will have at least an average amount of discretion, that they will be capable of discriminating as to the case the Minister puts before them regarding the prisoner, and having tested the case by the appearance and bearing and the evidence that the prisoner himself submits to prove his innocence, that they will be competent to declare that this prisoner should no longer be detained, and that thereupon he should be released. Notwithstanding what the Minister has said in regard to earlier amendments, I think he will see the justice and the reasonableness of this proposition.

Mr. FITZGIBBON: This amendment covers the two principles that are in-

volved in the next three amendments standing in my name. As I have some doubt whether, if this amendment were defeated, it would be open to me to move the amendments I have put down with the same object, and as I have no desire to waste time in going twice over the same ground, I propose to support this amendment with the arguments that I had intended to put forward in support of the amendments in my own name. The wording of this amendment differs to some extent from mine, and perhaps goes a little further. The two real principles involved are these, (1) that the onus should not be put on a man who is merely detained on suspicion of proving that there is no reasonable ground for that suspicion; (2) that when the tribunal that has been set up by the Minister to inquire into the question whether there are or are not reasonable grounds for detaining the prisoner has reported that there are none, it does seem to me to go far beyond justice and far beyond the necessities of the case that when, after investigating all the reports that the Minister has placed before him, they come to the conclusion that there is no reasonable ground for detaining a man, that he should nevertheless be kept in custody. The section as it stands does these two things, although they seem to me to be contrary to justice, (1) that a man who is merely suspected should have to prove that there is no reasonable ground for suspicion, (2) that when he has succeeded in doing that he should nevertheless be detained at the option of the Minister. I do think, with every desire to support the Government in all reasonable and even in some unreasonable methods of dealing with the present situation, that this goes too far. I do suggest that when the Appeal Council, having investigated all the facts, finds itself in a position to report that there is no reasonable ground for detaining a man, that that decision ought to be adopted. I think that every word that the Minister said on that amendment with regard to the constitution and *modus operandi* of this Appeal Council supports the view I am putting forward to the Dáil. They are not to be deluded by the subtleties of lawyers. There are to be three reasonable people appointed by the Government, I have no doubt, with every desire to support the cause of law and order and to maintain regular government in this country. I have no doubt that after the

reports that will be put before them—because the previous amendments decided that they were to have the reports upon which men were detained—if they see there is nothing to be found in these reports, and nothing to be found in the statement made to them by the responsible Minister, that, being reasonable men, and coming to the conclusion that there are no reasonable grounds for detaining the prisoner, he ought to be released. The wording of this amendment goes beyond mine in this, because it goes on to provide that if he is detained for a certain period the Council may deem that a proper cause for release. I do not go so far as that, but I would go so far as to say that, as the Minister says the prisoner is in reasonable detention, it would be for the Ministry to say how long he shall be detained, and not the Appeal Council. I am inclined to support that view. But the two vital principles in this amendment, and which induced me to put down my amendment, are that, although we are far from the position that a man is presumed to be innocent until he is proved to be guilty. I think if the people who detain a man can show no reasonable grounds for suspecting him, then he ought to be treated as a person free from all suspicion and therefore ought to be entitled to get out; and if, having failed to discharge the onus of proof that there are some grounds for suspecting him, they ought not to be put in a position of overriding the decision of their own tribunal and declaring that the man must still remain in custody. I support this amendment, and I trust that even if the second clause of it does not meet with the approval of the Minister in charge of the Bill he still may give us some release as regards the first clause, and, secondly, as to the power of the Minister to override the decision of his own tribunal.

Mr. McGARRY: I suppose I may be regarded as more or less interested in this matter. I am going to vote against this amendment, because I know the difficulties the military authorities have even in dealing with prisoners. I know there are several prisoners in custody at the present time against whom I could prove several charges of loot, robbery, and arson and other things, and the only reason I do not do it is because I would get somebody else into

trouble. That has happened all over the country and in Dublin. People have looted property and stolen motor cars, but the people who know they have done it will not come forward and give evidence in public, and the reason is because they think they would be shot the next day. I know, at the present time, that we have in custody six or seven people against whom I could formulate charges, but I could not conscientiously ask witnesses to come forward and prove them. I simply cannot do it. I am in trouble enough myself, and I do not ask other people to walk into trouble. What is the use of talking about reasonable suspicion? You cannot prove it, and it is not fair to ask people to come forward and prove it. I shall vote therefore against this amendment.

Mr. O'HIGGINS: Deputy FitzGibbon said there are really two principles in the amendment, and that is correct. There is the principle of whether we are entitled, in any circumstances, however grave, to put upon detained persons the onus of showing cause why they should not be detained, rather than take upon ourselves the onus of showing why they should. That is a matter that has been referred to over and over again on this Bill, and runs right through the whole Bill: that is, the question of detention upon anything short of legal proof. Now, I would like to meet Deputy Johnson and Deputy FitzGibbon by throwing (a) into a positive, rather than into its present negative form, but on (b) I am afraid I could make no concession. Dealing with (a) first "wherever an Appeal Council has enquired into and reported on the case of any person under this section and either—(a)—such Council has reported such person has failed to show that there is no reasonable ground for suspecting him of having committed or being engaged or concerned in the commission of any of the offences mentioned in the Schedule to this Act."

That is reading it as it stands now. We must remember that such a person was arrested and detained because an Executive Minister was satisfied that there was reasonable grounds for suspecting him of having committed offences mentioned in the Schedule, and this body is set up with a view of enabling the prisoner to rebut that suspicion and

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to show that he is not the kind of a person who should reasonably be detained as a matter of public safety. That is why (a) is in its present negative form, because it would amount to reporting from this Council that the detained person had failed to throw off from himself the suspicion on which he was arrested.

Now I would like to meet, as far as I possibly could, the objections that have been urged, and I would be prepared to consider some such reading as this:—

“Whenever an Appeal Council has enquired into and reported on the case of any person under this section and either—

“(a) such Council has reported that there are reasonable grounds for suspecting him of having committed or being engaged or concerned in the committing of any of the offences mentioned in the Schedule to this Act.”

That is, that their report would be positive confirmation of the suspicion upon which a person was arrested rather than a report to the effect that the person did not clear himself of such suspicion. I think myself that the negative form is in the circumstances reasonable. A B has been arrested in a time of crisis because the Executive Council of the country which is responsible for public safety considers him reasonably suspected of having committed certain grave offences, which offences being for the most part the methods by which a campaign against the State and the citizens may be conducted, we set up this body, and we give to detained persons an opportunity of clearing themselves of this suspicion, and I think it is not unreasonable to say that they shall be continued to be detained unless that body reports that they have cleared themselves. That is what it means as it stands.

I would like to go a little further and put a more positive burden on (a), and make the Section read: “Whenever an Appeal Council has inquired into and reported on the case of any person under this section, and either (a) such Council has reported that there are reasonable grounds for suspecting him of having committed or being engaged or concerned in the committing of any of the offences mentioned in the Schedule.” If I put in that positive wording I would insist

upon (b) as it stands, and the section would go on to read: “or (b) an Executive Minister having considered the report of such Council, is of opinion that the public safety would be endangered by such person being at liberty, any such person may be detained,” etc.

Deputies may think that that is treating the Appeal Council very lightly, and, of course, there is the obvious point to make that we ourselves set up this Council and selected its personnel, and that it seems a strange thing to refuse to bind ourselves by its recommendations. But there is this: Deputy Johnson the other day spoke of “public safety.” He took the two words “public safety” and made play with them, and asked for a definition of them. I did not reply by saying that it was the safety of the public, or anything of that kind. There is this about it, that the Executive Council, for the time being, must be the judge of it, and must be the judge of what it demands in particular cases and in a particular set of circumstances. We could not, even to this Appeal Council, leave the absolute last word on the matter. As I say, I do not really expect that any recommendations from that body would be ignored or overruled, and yet I would not concede the right to overrule them, because to concede that would be to concede to a body that has no mandate from the people, or any responsibility to the people, the right of saying the absolute last word on what the public safety requires. It may be academic or theoretical, but there is just that about it that it ought not to lie with a body of this kind, in such circumstances as we have in the country at the moment, to say absolutely that the public safety does not require the detention of A B. If a change in (a) of that section would meet Deputy Johnson or Deputy FitzGibbon, or both, I will be glad to insert some such change on the Report Stage, but I could not concede the other principle that Deputy FitzGibbon has urged—that we should say, in such a situation as the present, it will lie with some Appeal Council which we will set up to say the ultimate “yes” or “no” on the question of prisoners’ releases. It might well be that there would be circumstances which would prevent us from putting before such a Council absolutely all the information that would be at our disposal with regard to a prisoner. It might well

be that for sufficient reasons, for very good reasons, we would find it incumbent upon us to withhold and to lay only a partial report, or a partial *dossier* of evidence, before this Council. There might be an item, and a very grave item, which it would be considered necessary to withhold. In such times as the present Deputies will perhaps understand that point. Deputy McGarry touched on it. The Executive Council for the time being must always be the judge of this vague thing called "public safety." That is their peculiar function. If they judge it wrongly or unwisely, and consistently show an inability to appreciate what it is and where it lies, then the representatives of the people would take appropriate action; but for the time being, and while in office, they must judge it rightly or wrongly, and they cannot delegate to such a body as this Appeal Council the power or the right to judge it.

Mr. FITZGIBBON: The Minister in his speech seems to me to have agreed substantially to accept Amendment No. 28, but he refuses to accept Amendments 27 and 29.

AN CEANN COMHAIRLE: These would be the exact words if Amendment 28 be accepted.

Mr. FITZGIBBON: In regard to what Deputy McGarry said, no one suggested that the Ministry should prove the guilt of any detained prisoner to the Appeal Council. All that they are asked to do is to prove that they have reasonable grounds for suspecting him, which is a very different thing indeed from proving that he is guilty. He has not got to do what the ordinary prisoner in the dock, in the ordinary case, may have to do when a case is established against him, and that is to prove his innocence. He has got to go a good deal further than any criminal was ever asked to go, and that is to prove not only that he is innocent, but much more than that, to prove that no reasonable person ever suspected him of being anything else but innocent. To put that onus on any man seems to me to go far beyond the limits of even the grossest injustice. I am very glad indeed that the Minister has seen his way at any rate to modify Sub-head (a) to the extent that he has outlined. I have no desire to press amendments to divisions merely for the sake of recording my vote one way or the other. But what I want

to do is to get as much reasonableness into this Bill as I can, and if I cannot get more than what the Minister has offered I will take that with modified thankfulness. As I say, I am not moving my amendment at present, but I am supporting the amendment moved by Deputy Johnson. When my own amendments come on I will ask leave, if the first amendment is defeated, in view of what the Minister has said, to move Amendment 28.

Mr. DAVIN: Deputy McGarry assumes that these Appeal Councils would be Courts where it would be necessary for him or any other person with information at their disposal to bring forward people in order to prove charges against prisoners. There is no necessity to labour that point, because the Minister takes an opposite view in so far that he does not agree that it is a Court. The Minister referred to this vague thing called public safety. That is a thing that I have in my mind all the time when dealing with people detained or interned on suspicion. I know a few people at the present time who are enjoying the hospitality of the Free State Government in Tintown.

As far as I know, and I know one of them very well, they could never be accused of anything more than blowing off a lot of froth and steam. Simply because in their excited moments they may say something they are to be taken up for that. It might not be a crime to say that I am a rotter or a danger to the public safety or a tool of the Government, but it would be a crime if, in his excited moments, an individual said such a thing about the Minister. Possibly it might be set up as a charge against him that he was a danger to the public safety. I think you are placing a rather extravagant interpretation on the patriotism of such a gentleman by detaining him, at the hospitality of the Executive Council, at the Curragh. I know of a few gentlemen who go about shouting their anti-Government ideas and nothing more. I do not think they could be accused of having the courage to go into active opposition to the Government. That is the class of people you have to cater for in the amendment we move, and there should not be any necessity to detain these people, if at all, a day longer than would be necessary to give them the means of being accused by you and an

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opportunity of defending a charge before the Appeal Tribunal.

Mr. O'CONNELL: It seems to me the Minister must have had some object in putting this Appeal Council into the Bill. He must have expected these Councils would be availed of by those held in detention. If he expects they will be availed of there should be some measure of confidence inculcated in the minds of those detained to the effect that their decisions will carry some weight. If by refusing this amendment and by the statement he has made, the Minister makes it clear at the outset that, no matter what the Appeal Council will decide, he will still retain the right to hold the prisoner—

Mr. O'HIGGINS: The right.

Mr. O'CONNELL: I foresee that what will happen will be that none of those people detained will approach the Appeal Council. Most of the Deputies know that as regards the Sankey Commission which was set up under the British regime, very few people availed of it, although there was nothing more wrong with it, from the point of view of the people with whom we are dealing appearing before it, than there would be in appearing before this Tribunal from the point of view of the people who will be dealt with under the Bill. In the North of Ireland some of the prisoners who were detained in the "Argenta" did, at the beginning, appear before these Appeal Councils, or somewhat similar bodies that were set up there, and they very soon found that, even though they did appear, nothing came of it. After that had become manifest to those detained, there were no more appeals. I submit it would be just as well that the Minister would omit the Appeal Councils altogether from the Bill and not set up a pretence of a Council, which he is making plain will really have no effect.

Mr. O'HIGGINS: Surely the Deputy remembers that I said I did not foresee or anticipate that a single recommendation of this Council would be ignored or overruled, and that it was merely a technical right that had to be preserved of deciding, in a matter of public safety, whether a prisoner would or would not be released.

Mr. O'CONNELL: I am pointing out that it will have no effect, and it will not be availed of, simply because the Minister has said, and is now saying, in effect, that he still retains the right, no matter what the Council decides, to keep the prisoners.

Mr. O'HIGGINS: It is an advisory body.

Mr. O'CONNELL: That is why I say it would be as well to leave the Councils out altogether.

Mr. O'HIGGINS: If the Deputy puts down an amendment to that effect, I will consider it.

Mr. O'CONNELL: It would be, to my mind at all events, a more honest dealing than setting up a Council which he makes by his statement nugatory.

Mr. McGOLDRICK: I think this is a point that the Minister on behalf of the Executive cannot concede. I think the Minister is responsible to the Executive, the Executive is responsible to Parliament, Parliament is responsible to the people, and the people have the controlling power. If a certain case of individual hardship should by any possibility arise, it could be brought before the Dáil, and the fact concerning the prisoner's detention could be submitted.

CATHAL O'SHANNON: No.

Mr. McGOLDRICK: The Dáil could have submitted to it such particulars as may be required in any case in which there may be some doubt as to hardship imposed on a prisoner. This is not a tribunal that we can exactly describe as the tribunal to which Deputy FitzGibbon referred. Such a tribunal would be based upon juridical status, and would have all the rights to decide as to guilt or innocence. This is merely a tribunal that inquires into how far a person is reasonably suspected of being dangerous to the State. It is not concerned so much with the guilt or innocence of the prisoner as it is with his liability to be dangerous to the State. I think when the Minister has removed the first portion of it, to which I was myself opposed, the second part, in so far as it will not and cannot involve more than a slight percentage, if any percentage, of persons being detained after the Appeal Tribunal has decided that there was not sufficient

evidence to justify them in saying there was reasonable ground for suspicion, is satisfactory. It may be there will be cases in which there are facts that cannot be brought forward. These things will arise. The Executive will feel some responsibility in the matter, and their responsibility is to the nation and to Parliament, and they cannot throw away their right to veto in a case of the kind, because some particular control must repose in some head or Executive with regard to special cases like those. Under the circumstances the tribunals are not judicial tribunals in any sense. They are merely inquiry tribunals, and their recommendations would be based on what is put before them, and it may not be possible to put all the facts before them at all. I think the amendment which the Minister has decided to accept will make the clause quite safe for its being accepted by this Dáil. The Dáil will be careful not to sanction anything that is unduly harsh or likely to create hardship on any individual. I am sure that is not the intention, and I am sure the Dáil will take proper steps that these things will be dragged forth.

Mr. JOHNSON: How?

Mr. McGOLDRICK: I am sure that the ordinary conditions that attach to all Parliaments will make it possible for any Deputy to have a case of hardship, if such come under his notice, brought here before this Dáil, the tribunal of the nation.

Mr. JOHNSON: How will we know about them?

Mr. McGOLDRICK: We can demand full particulars at any time by a combined desire on the part of the Oireachtas to inquire into any particular case of hardship that might arise, and inquire why a Minister should maintain a position which would seem impossible to be maintained. I think that is sufficient protection against hardship being inflicted. I think the Executive must hold a veto in this matter.

CATHAL O'SHANNON: Deputy McGoldrick has brought up again the illusory prospect of eliciting facts which neither the Minister in charge of the Bill nor any other Minister is going to disclose to the Dáil any more than to the Appeal Council. Deputy Gavan Duffy dealt yesterday with the illusory nature of the bringing of a case before the Dáil.

Supposing the Appeal Council has advised the Minister that a certain prisoner should be released; that the Minister, for the reasons he has stated here several times this evening, has not put that Council in possession of all the information, or perhaps I should say all the suspicion, in his possession, and the Minister, in the face of the Council's recommendation, decides to keep the prisoner, Deputy McGoldrick then seems to think that it would be possible to bring up a case before the Dáil and to get much more satisfaction from the Minister in the Dáil than either the prisoner got when before the Council or than the Council itself got. That shows tremendous faith not only in the ability of the Dáil, but in the ease with which the Minister, or any Minister, will submit information at the request of the Dáil. Those of us who have had occasion from time to time to bring up the cases of prisoners in the Dáil have found that we have been able to get very little information indeed, except "that in the interests of public safety it was not considered advisable to release so-and-so." No more. But the Minister has said that he cannot foresee that these sub-sections which Deputy Johnson is seeking to amend will be applied in all their severity. But we have, none of us, any guarantee that that will be so. The Minister himself has no guarantee. He might have some guarantee, and the Dáil might have some guarantee if the Bill were to complete its course and expire before the General Election, but that is not likely. It may be that the present Ministry will become the new Ministry under the new Dáil. It may not be. It may be strengthened or weakened by combinations with somebody else. It may, on the other hand, even be in a minority, in the new Dáil. None of us know. Therefore, the promise from the Minister now, that certain things will not be done under this Bill, does not hold good, because he can give no promise for an Executive Council which comes in within the next few months. There is no really pertinent argument in turning round and telling Deputy O'Connell that if his opinion is that it would be much better that there was no Appeal Council than that their powers should be so little, he should move an amendment for the deletion of the provisions dealing with the Appeal Courts on the Report Stage. The amendment, as

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proposed by Deputy Johnson, is a serious amendment, an effort to establish certain principles, and to get practices corresponding to those principles in the administration of the Bill. To some extent the Minister has gone a little way to meet part of the intention. He has not gone the whole way. But I would urge on him and I would urge on the Dáil to consider, not only the case that has been made by the amendment as a whole, but particularly the need, as Deputy O'Connell has pointed out, for imbuing internees and prisoners with the idea that they are going to get at least a fair crack of the whip.

Mr. BLYTHE: Hear, hear.

Mr. JOHNSON: I submit that that is out of order until the next Section.

CATHAL O'SHANNON: In the Six-Counties, as Deputy Johnson has said, there is no confidence whatever in the Appeal Council. In the Sankey Committee there was no confidence. If the powers of this Appeal Council are to be so limited as the Minister said, then there can be very little confidence, and there can be no inducement whatever to a prisoner to make an appeal to it. The Minister frankly and fearlessly admits that he may have up his sleeve, information which he cannot give to the Appeal Council. It may be a prisoner meets with the suggestion that he should take his case to one of these Councils. It is presumed that when that suggestion is made to him that he is told all about their powers. He may be told, or if he does not know, he ought to be told, that while they have a good deal of information about him, the Minister may have more information about him, and though even they decide he has made a good case, and recommend that he should be released, yet the Minister, either in virtue of the information which he has not disclosed, or for some other reason, can still decide to keep the prisoner in detention. Can anyone imagine that the bulk of the prisoners faced with a situation like that, could have any confidence whatever in the Appeal Council? No, they will simply say "It is bluff, they are pulling our legs, it is making a pretence of doing something for us without doing

anything for us, the best thing for us to do is to ignore this Appeal Council altogether."

Mr. JOHNSON: I frankly say that it would be much better not to have Section 4 in the Bill at all in its present form. The Bill is far better without it. For one thing, the Section as it stands, unless it is amended in the form desired, simply suggests that the Minister wants an appearance of relieving himself of responsibility. He can at least appear to throw some responsibility for the non-release of prisoners who have appealed to the Committee. There is nothing to show what the report of the Council will be to the Minister, and at least there will be good grounds for thinking that the report was unsatisfactory, even though it may have been satisfactory. The prisoner is damnified having once gone before the Appeal Council, and not having been released the public will have a right to assume that there is more in the charge than they believe. Yet the Council may have said: "No, there is no evidence to connect this man with malpractices or any association with malpractices." The Minister reserves to himself the right to say, notwithstanding what the Advisory Committee may have said, notwithstanding what the Appeals Council may have said: "we are going to detain this man," and nothing more is to be known except the inference is to be drawn that they have something up their sleeve. I wonder whether, when defining the composition of these Councils, the Minister had in his mind the probability that eminent judicial gentlemen would not be likely to serve on Councils of this nature. All he asks is, that one of them is a person certified as having legal knowledge and experience. I take it that the Attorney-General will be expected to have proper consideration for his profession, and he will be sure that the person whom he nominates will be either a qualified solicitor or a practising barrister. He may only be a very minor one waiting for promotion, waiting for experience, and it may be that only minor ones will be willing to serve on a Council which has such limited power and authority, in which neither the public nor the prisoner nor the Minister himself has

any confidence. The Minister confesses that, in paragraph (b) which he refuses to alter. I submit that to make this section of any value at all it requires amendment, such as that which is proposed. Not merely is that required to make the section of any value, but if something of that kind is not proposed the section itself would be very much better deleted, very much better for the prisoner and for the public. I think that it would ensure that the Ministers would have to bear the responsibility and not transfer it by inference to the Appeals Council. Deputy McGoldrick repeated his suggestion which he made one day recently, about the reliance upon the Ministry, the check the Dáil might have upon the Ministry, and the check the public will have upon the Dáil.

That is very pleasant, and I am sure that the Minister immediately reminded himself of his famous criticism that he is so used to in the Dáil, and he was eager to call upon Deputy McGoldrick not to deal with theories, but to deal with facts and common practices, facts of life round about us, and not to be thinking of the ultimate responsibility of the electorate for the conduct of their representatives, and of the representatives for the electorate, and the responsibility of the Ministry for their subordinate officials. Undoubtedly, the Minister said "That is a lovely theory, but, in practice, it does not happen," and I ask Deputy McGoldrick how he is going to bring the case of a prisoner, whose case had been heard before the Appeals Council, the Council's decision having been over-ruled by the Minister, before this Dáil? He would need to have access to the prisoner. He has not got that, but is seeking to get that. Only after the expiry of the Act, and the expiry of the period of detention would it be possible for Deputy McGoldrick to bring the case of that prisoner before the Ministry through the operations of the legislative chamber. Of course, it is always possible for a majority to turn out a Ministry. That is very little protection for the innocent prisoner whose innocence has been provable to the Appeals Council, and evidence of whose guilt is alleged to be contained in the archives of the Ministry. There is not much satisfaction to the prisoner in a vote of want of confidence in the Executive Council. One does not want to quote Dr. Stockman and speak of the

"damned, compact majority," but one might well think of "the blessed compact majority" which believes that greater evil will result from the effect of want of confidence than from the continued detention of a prisoner. That is quite a reasonable proposition. We ought not to be weighing up the rights to detain a prisoner who may be innocent with the risk of throwing out the Executive Council, and that is the only check that Deputy McGoldrick says that we have. This Bill, when it passes, will not be the Bill or the Act of the Executive Council, but the Act of the Oireachtas. It is not enough for the Ministry to assure us what their intentions are. It is not enough to say, "we intend that such-and-such a thing shall take place." There is no need for a Bill to do that. They have power to release now. There is no need for a Bill to give them power to release. There is no need for Section 4 to set up an Advisory Committee to advise whether a person should be released or not, unless they bind themselves to take the decision of that Committee, and release the prisoner on receiving their judgment that there is no evidence of guilt. The Minister, all through this Bill, has based his case upon the contention that they must have the right to intern without trial. He claims that right, no matter whether there is *prima facie* evidence of a man's guilt or not. Even though the Advisory Council decides that there is not, still, he wants power to detain a man against whom there is no shadow of evidence. All power to the Ministry! All power to any Executive Minister! Talk about all power to Soviets! Talk about the dictatorship of the proletariat! That is the dictatorship of a single Minister, if you like. He asks the Dáil to agree to the setting up of an Appeals Council, an Advisory Committee. Having set it up, even though he declares there is not a particle of evidence to suspect the prisoner, he says, "I am going to have power to detain and intern that innocent man." This is supposed to be a transitory period between the period of revolution, of warfare, a period of armed rebellion, and a period of peace. It certainly would be much more frank and much more reasonable to come and ask for power to do anything with a citizen for at least six months, or for at most six months. If you intern a person who is, in effect,

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proved to be innocent, you may ask anything imaginable. Deputy O'Connell referred to Belfast, but I am pretty confident that they did not dare to go to the Belfast Parliament to ask for any such powers. They may take them. They may use them, but they would not dare to go even to the docile Parliament there to ask for those powers. The Minister has no hesitation, apparently, in coming to this Parliament to ask for those powers, because, feeling confidence in his own integrity, his own *bona fides* he thinks that is all that is at stake. It is conceivable that others may sit in those seats, and it is conceivable that, once this Oireachtas has embodied this kind of legislation in a Bill, a different Ministry, in a few years time, may say, "here is a precedent for us, and we may ask our docile majority to do the same." It is not wise for this Dáil to embody this kind of thing in legislation. It would be very much better for them to strike it out and say, "We will use the power that we have, and we will risk the consequences of the use of that power without trying to ride off under the cover of an Appeals Council."

Mr. GAVAN DUFFY: I had intended to wait until the Section itself was under discussion, and to say nothing upon this series of amendments, for reasons which will be sufficiently obvious to Deputies, but there is one point raised on a statement made by the Minister which should not go by default in connection with this particular amendment. The Minister seeks to justify the procedure of not undertaking to abide by the decision of an Appeal Tribunal, upon the grounds that there may be some confidential report dealing with the case of a prisoner, requiring that prisoner's incarceration, which the Executive Council would not feel justified in placing before an Appeal Council, everyone of whose members they will themselves have selected. I have not been present during the whole of the discussion, but, if I mistake not, the Minister himself accepted Amendment 22.

I think I am right in supposing that the Minister has accepted Amendment No. 22, and that amendment said that in an inquiry under Section 2 the Appeal Council shall—meaning must—be fur-

nished with reports or certificates in virtue of which the person whose case is being inquired into is being detained. That can only mean that the Minister has agreed that all the grounds for detention of a person detained on suspicion without trial are to be laid before this Appeal Council. He would not be observing the terms of Amendment No. 22 if any material report—

Mr. O'HIGGINS: I did not speak about report.

Mr. GAVAN DUFFY: The Minister used the word "report."

Mr. O'HIGGINS: I used the word "information."

Mr. GAVAN DUFFY: But if he had only used the word "information," the position would be just the same, because the object of Amendment No. 22 is to secure that the Appeal Committee shall know why a man is interned. That is the only object of it—that in an inquiry under that Section the Appeal Council is to be furnished with the reasons for a man's internment. It is expressed in the words, "reports or certificates by virtue of which a person is interned." Surely the Minister for Home Affairs is not going to tell us that some private reason of State, over-riding other reasons, may exist and that he will be justified in the face of that amendment, which he has accepted, in withholding that private reason, and in putting before the Appeal Council reasons which are only partial, and which are not the full grounds upon which the Executive relies. My object in referring to this particular matter is that it seems to me, the Minister's statement is a negation and contradiction of the amendment which he himself accepted. I do not think that he can have it both ways. If it is right that the Appeal Council should be furnished with reasons let them be furnished with reasons and not partial reasons. I hope that the Minister on reflection will realise that the contradiction is quite apparent and quite indefensible.

Mr. GEORGE NICHOLLS at this stage took the Chair.

Amendment put.

The Dáil divided: Tá, 15; Níl, 34.

Tomás de Nógla.
Riobárd Ó Deaghaidh.
Liam de Róiste.
Tomás Mac Eoin.
Seoirse Ghabháin Uí Dhubhthaigh.
Liam Ó Briain.
Gearóid Mac Giubáin.
Tomás Ó Conaill.

Aodh Ó Cúlacháin.
Seamus Éabhróid.
Liam Ó Daimhín.
Seán Ó Laidhin.
Cathal Ó Seanáin.
Domhnall Ó Muirghéasa.
Domhnall Ó Ceallacháin.

Níl.

Liam T. Mac Cosgair.
Uáille Mac Cumhaill.
Micheál Ó hAonghusa.
Domhnall Ó Mocháin.
Seamus Breathnach.
Pádraig Mag Ualghair.
Peadar Mac a' Bháird.
Micheál de Duram.
Seán Mac Garaidh.
Risteárd Ó Maolchatha.
Pilib Mac Cosgair.
Micheál de Stáineas.
Domhnall Mac Cárthaigh.
Sir Seamus Craig.
Liam Thrift.
Eoin Mac Néill.
Liam Mag Aonghusa.

Pádraig Ó hÓgáin.
Pádraic Ó Máille.
Seosamh Ó Faoileacháin.
Fionán Ó Loingsigh.
Seamus Ó Cruadhlaoich.
Cristóir Ó Broin.
Caoimhghin Ó hUigín.
Próinsias Bultin.
Seamus Ó Dólaín.
Seán Mac Eoin.
Próinsias Mag Aonghusa.
Peadar Ó hAodha.
Seamus Ó Murchadha.
Liam Mac Sioghaird.
Tomás Ó Domhnaill.
Earnán de Blaghd.
Uinseann de Facite.

Amendment declared lost.

Amendment 27: "In sub-section (3), line 56, to delete the word 'either.'"

Mr. FITZGIBBON: I do not move amendment 27.

Mr. LYONS: On a point of order, is it necessary for a Deputy to get the sanction of the Dáil before he withdraws an amendment?

Mr. FITZGIBBON: I did not withdraw the Amendment. I did not move it.

ACTING CHAIRMAN (Mr. Nicholls): The Deputy himself has answered the question. He has not moved the Amendment.

Mr. LYONS: If the Deputy in whose name the Amendment appears does not move it, can another Deputy move it?

ACTING CHAIRMAN: Not without authority from the Deputy concerned.

Mr. JOHNSON: That has not been the ruling.

Amendment not moved.

Amendment 28 "In sub-section (3) (a), lines 57 and 58, to delete the words 'such person has failed to show that' and to delete the word 'no,' line 58, and in line 61 to delete the word 'or.'"

Mr. FITZGIBBON: I beg to move Amendment 28. I have already said all I have to say in connection with this Amendment, and I understood the Minister to say that he was prepared to accept this Amendment, with the exception of the last three or four words. At least, he read out words that seemed to me to be identical with Amendment 28, and the Ceann Comhairle pointed out that the Amendment read out was identical with the terms of this Amendment, with the exception that the word "or" was not to be deleted. That would mean that the Amendment would read "in sub-section (3) (a), lines 57 and 58, to delete the words 'such person has failed to show that,' and to delete the word 'no,' line 58," and stop there.

Mr. O'HIGGINS: I accept that.

Mr. JOHNSON: I think the amendment as it stands is one that ought to be submitted to the Dáil. The sub-section, if this amendment were carried, would read:

"Whenever an Appeal Council has inquired into and reported on the case of any person under this Section and either:

(a) such Council has reported that there is reasonable ground for

[Mr. Johnson.]

suspecting him of having committed or being engaged or concerned in the commission of any of the offences mentioned in the Schedule of this Act, or,

Then (b) would follow. The case made by the Deputy in the previous discussion seems to me to prove the necessity for having this amendment in the form in which it is, and with the deletion of the word "or" at the end of the paragraph retained. We have not yet come to the next paragraph and we have a right to assume that there is, at least, a chance, despite the opinion already expressed by the Minister, that (b) will not be pressed. If we retain the word "or" now it will assume that there is something following, whereas if the amendment in the form in which it is printed is carried, there is no conjunction and we will be grammatical, at any rate, when we exclude paragraph (b). I would urge that the amendment be put in the form in which it has been placed on the paper.

Mr. FITZGIBBON: I would urge the Deputy not to press that. We have got a promise of something, and if the amendment goes to a vote I am afraid we might, while grasping at the shadow lose the substance.

Mr. LYONS: I am of the opinion that there is room in the amendment for improvement, as suggested by Deputy Johnson. I think Deputy FitzGibbon is of the opinion that "a bird in the hand is worth two in the bush." That might be his point of view. But I think the amendment ought to be put to the Dáil as suggested by Deputy Johnson. I do not see why the mover of the amendment should accept half the substance and throw the other half away.

Professor THRIFT: I rise to raise a question on a point of order. If this amendment is about to be put to the Dáil, would I be in order, supposing it were lost, in asking for your leave to move it without the last clause, deleting the word "no"? I think according to the Standing Orders the Ceann Comhairle can give leave for amendments to be moved which are not upon the Order Paper. I could put the matter in another way. Would I be in order now in moving

with reference to this amendment the deletion of the last nine words?

ACTING CHAIRMAN: I said that I was taking the amendment as received, and in that I have the last nine words deleted, and that is the amendment now before the Dáil.

Professor THRIFT: That is all right.

Mr. JOHNSON: The amendment that was circulated, and which was discussed, was the amendment that was on the Order Paper, and I submit that we have to come to a decision on that amendment, otherwise—I draw your attention to the importance of this—it may be ruled that in consequence a succeeding amendment will not be in order. It is of the greatest importance that the motion shall be put in the form in which it was circulated, because there is a consequential amendment that has to be discussed, and if the amendment is to be in the form which you have now indicated, and different from the form in which it was circulated then, in consequence, it will not be possible to discuss the succeeding amendment.

Mr. FITZGIBBON: If it simplifies the matter I may state that I have no intention of moving the succeeding amendment.

Mr. HIGGINS: We might ease matters if I accepted the amendment on the Order Paper, and in the event of the succeeding amendment not being moved I would consent, on the Report Stage, that the word "or" between (a) and (b) should be deleted, because seeing that it governs the word "either" before (a), "or" is necessary and complementary on that if (b) survives. If (b) survives on the Report Stage I will have to add the word "or"; if (b) does not survive, then on the Report Stage I will have to move the deletion of the word "either" before (a). I would be quite willing to accept the amendment as it stands.

Amendment agreed to.

Mr. FITZGIBBON: I do not move Amendment 29, A Chinn Chomhairle.

Mr. JOHNSON: With permission I beg to move Amendment No. 29:—"To delete Sub-section (3) (b), on page 4, lines 1 to 3."

Mr. BLYTHE: Chair.

ACTING CHAIRMAN (Mr. Nicholls): There is no motion before the Dáil and Deputy Johnson is not in order.

Mr. JOHNSON: I am making a motion.

ACTING CHAIRMAN: Amendment 29 is not before the Dáil, and nobody has power to move that amendment without the sanction of the Deputy in whose name it stands.

Mr. JOHNSON: I beg to suggest that your ruling is different from that to which we have been accustomed from the Ceann Comhairle. It has been quite a common practice to accept amendments sent in in the names of certain Deputies and moved by other Deputies. Apart from that, it is quite in order to accept amendments on Committee, even though notice has not been given. I rely upon the practice that the Ceann Comhairle has allowed. It is quite common that a motion, of which notice has been given by one Deputy, and which that Deputy is not prepared to move, should be moved by another Deputy. It has been the practice ever since the Dáil began its sittings and I think it is a desirable practice, and I submit it is not reasonable to change the practice on this occasion.

ACTING CHAIRMAN: An amendment put in by one Deputy can be moved by another Deputy on his behalf at his request. The Deputy in whose name this amendment appears has refused to move it and therefore I think that Deputy Johnson cannot move it on his behalf.

Mr. JOHNSON: May I point out that this is not treating the Dáil fairly. I do not mean that your ruling is not doing so, but I mean this practice, if it became the procedure. If an amendment or a motion is put forward by a Deputy then it is before the Dáil. Notice of it has been given and it has either to be withdrawn by leave or it should be subjected to discussion and decision. I think that that is undoubtedly the practice that the Ceann Comhairle has allowed.

Mr. BLYTHE: Nonsense.

Mr. JOHNSON: I am prepared to

abide by the decision of Acting Chairman as against the interjection of the Minister for Local Government.

Mr. D. MCCARTHY: Is it in order for a Deputy to question the ruling of the Chairman and to make two speeches on the ruling of the Chairman? We all know quite well that you must have the permission of the Deputy in whose name the amendment stands.

Mr. DAVIN: I wish to draw the attention of the Chairman to——

Mr. D. MCCARTHY: Chair.

ACTING CHAIRMAN: I gave certain latitude in this matter, but I gave my ruling and nothing that I have heard would make me divert from that ruling. It is quite clear, and has been the constant practice all along, that a Deputy, if absent, in whose name an amendment is down on the Order Paper, can get another Deputy to move it on his behalf, but in this case the Deputy in whose name the amendment stands is in the Dáil and does not move it. Therefore, there is nothing before the Dáil. Amendment 30.

Mr. O'HIGGINS: I accept that amendment.

Mr. JOHNSON: I submit that the amendment has not been moved.

Mr. EVERETT: I move that we delete the words "or outside" in Sub-section (3), lines 4 and 5.

Amendment agreed to.

Amendment 31 by **Messrs. DAY and COLOHAN:** "To delete Sub-section (4)."

ACTING CHAIRMAN: That amendment falls consequential on Amendments 16 and 20 being lost. Amendment 32.

Mr. NAGLE: I desire to move Amendment 32: "To add at the end of Sub-section (5) the words:—Any such regulations shall be laid before each House of the Oireachtas as soon as may be after they are made, and if either House of the Oireachtas shall pass a resolution annulling or amending the regulations, the regulations shall be annulled or amended accordingly, but without prejudice to the validity of anything already done under them." I think it is ob-

[Mr. Nagle.]

vious why this amendment is moved. It intends to give the Oireachtas an opportunity of discussing any regulations that the Executive Minister may make, and of amending these regulations if it is thought they are too drastic, or even if it is thought they are not drastic enough. I think the Minister should have no hesitation in accepting it.

Mr. O'BRIEN: I think it is very necessary that an amendment of this kind should be accepted in order that it might be seen whether or not the Appeal Council will be a real thing. It will not serve any useful purpose unless it be of such a character as to inspire those in custody with some confidence that they are going to get a square deal, and that the Appeal Council will have authority to give effect to its recommendations. This whole Bill is, quite obviously, founded on the Defence of the Realm Regulations, that many of the Deputies were unpleasantly familiar with in the early days of the European War, and some of the Ministers. The Minister in charge of the Bill, I think, had not the doubtful pleasure of making the acquaintance of the Advisory Committee set up under the jurisdiction of Judge Sankey. But you, Sir, and the Minister for Local Government, and, I think, the Minister for Defence could tell the Minister in charge some very racy stories as to the procedure adopted before Judge Sankey's Committee—which was called the Amusements Committee. I think you will agree it was not taken seriously, and it is possible that this Appeal Council proposed to be set up will not be taken very seriously by those on whose behalf it is to be set up. You will remember many of the prisoners were brought before Judge Sankey, a distance of a couple of hundred miles, to be asked trivial questions as to where they worked, and the number in their family, and so on, and this will turn out to be the same farce unless the people in custody have some idea they will get a square deal. I think it is necessary that these Regulations should be submitted here to see whether or not they faithfully carry out the intentions the Minister states is in his mind when he proposes to set up this tribunal.

Mr. O'HIGGINS: It was rather difficult to come to a decision with regard

to this amendment, and I will state quite frankly the arguments or considerations that would weigh towards the rejection. Those bodies that it is proposed to establish are not Courts, they are merely departmental advisory committees. I do not know whether there is any precedent for bringing before the Dáil, still less before both Houses, the instructions that would be given to committees of that kind, and a step such as is suggested in the amendment might give the appearance or suggestion that these were public tribunals. They are not. They are departmental committees. There are departmental committees sitting at the moment. There is, for instance, the Advisory Committee upon Personal Injuries, which is hearing cases and making recommendations to the Ministry of Finance. I am not aware that the instructions of that committee were laid before both Houses and discussed, still less amended, and yet if the Deputy and mover of the amendment were prepared to leave out some words in the amendment, I think we could strain a point and accept it. The words I would ask him to leave out would be the amending powers that are asked for. It is not without good reason I make that request. If these Regulations are to come before both Houses the amendment, as drafted, would leave it in the power of either House to put up and pass amendments. It might be amended differently in both Houses. There might even be conflicting amendments, and the question would arise as to which of these should prevail. If an amendment was passed in the Seanad which could not be reconciled with an amendment passed in the Dáil, what would happen? I would be prepared to accept the amendment minus these words that would involve that the Regulations for these Appeal Councils would be brought before both Houses and members would have an opportunity of discussing them. I have no doubt that, as a result of that discussion, if a strong view was shown to be held with regard to particular portions of the Regulations, the Minister in standing over them—whoever he might happen to be—would ask leave to withdraw them with a view to alteration, but I would ask the Deputy not to insist upon the power of amendment in either House. After all it is an Executive act. If it is wrong it is

wrong, and should be rejected absolutely, but the Dáil should not seek itself to draw up these Regulations. Let it criticise them when drawn up. If they are wrong and there is a general feeling to that effect, no doubt the responsible Minister would withdraw them for alteration, but I think the Deputy would be unwise to insist on power of amendment for both Houses, and if he did so insist I would have no alternative but to oppose the amendment absolutely, withdrawing the concession I have offered.

Mr. JOHNSON: I think the statement of the Minister is fair. I believe that this amendment is based upon the practice already in operation, even with the portion which is to be amended. Nevertheless, I realise the force of the argument that there may be a difficulty if one House desires to amend in one direction and another House desires to amend in another direction, and that there might be considerable time lost in deciding which amendment shall be accepted. A discussion that would take place, if there was a resolution to annul, might well mean that the Minister responsible would prefer to withdraw the regulation and amend it according to the suggestion which takes place on the resolution for annulment. On these grounds, I think I would advise my colleagues to agree to the deletion of the words on line 3, "or amending the regulations," and the later words "or amended." That would probably meet the Minister's objection.

Mr. NAGLE: I am quite willing to have the amendment changed to suit the suggestion of the Minister.

Mr. O'HIGGINS: I take it that the Deputy has no objection to an improvement in the drafting that would not alter the substance of the amendment? If we consider that the substance could be embodied in a better form of words I take it there would be no objection?

Mr. JOHNSON: Does the Minister make any suggestion as to an improved form of words?

Mr. O'HIGGINS: I would not be prepared to make a suggestion. It only struck me that the draftsman might care to do a bit of touching up on the wording.

Mr. JOHNSON: I think this is taken *verbatim* from a previous Act. If

the Minister finds it is not verbally accurate perhaps on the Report Stage he could suggest an amendment.

Amendment, as amended, put and agreed to.

Motion made and question proposed :—
"That Section 4 as amended stand part of the Bill."

Mr. GAVAN DUFFY: I am sorry this Section is going into the Bill. I am glad that there are amendments in it as far as they go, but as long as the Minister retains the power to override the decision of his own Appeal Council it is impossible for the appeal to be regarded as otherwise than as a delusion and a snare. I do not think it is sufficiently realised that the intense suspicion to which Deputy Johnson referred yesterday exists both in Executive quarters and among the prisoners. Consequently it is useless to provide an appeal of this kind unless in so doing you make it abundantly clear that the appeal will, in every way, be perfectly fair to the prisoner. You have to start with the fact that you are dealing with men who are naturally and reasonably suspicious of the Executive, and that you are dealing with an Executive that has shown itself to be exceedingly suspicious of those men and in many cases unnecessarily suspicious. If you start with that you will realise that a Section of this kind is really useless. I was struck by the drafting of this Section as it originally stood. I wonder whether the Dáil has realised that under the Section as originally drafted, and under that Section alone, the Executive has a right to order a specified period of detention for an internee, a period which, as I suggested yesterday, might have exceeded the period of the Bill. That, I hope I understood correctly, is to be taken out. But it was under this Section only that there was power given to the Executive to order detention for a specified period. Another curious thing was that in this Section only had you mention of the words "outside the Saorstát." So that it was a condition precedent to being deported to Saint Helena that you should appeal to the Appeal Council. You could not be deported unless you appealed to the Appeal Council to get out. Those being the facts can you blame men in prison that they are suspicious of this Appeal Council? Can any fair and reasonable man, however strongly he may feel against the men in prison, blame

[Mr. Gavan Duffy.]

them for being suspicious when an Appeal Council of that kind is presented to them as a serious method of seeking release? I think that there is only one way in which an appeal of this kind can be effective and that is to insist that the persons who man the Appeal Councils shall be persons completely independent of the Executive and with legal training. I do not mind whether you call the Council a Court or not as long as you make quite certain in your Bill that the men who compose it will not be mere nominees of an Executive Minister, but will be independent men and men of legal training. That is not what is proposed. One of them is to be a man of legal training, nothing is said as to the others. I put it to the Dáil that it is futile to insert in a Bill provisions for an Appeal Council of this kind in the terms in which the provisions now appear. It has been a humiliating thing for many who believed in the Free State to see the Courts of Justice compelled to declare that there was a state of war in existence at the present moment, apparently basing themselves mainly upon the fact that the arms had not been surrendered, an argument which might apply equally well 12 months hence, if the arms are not surrendered in the meantime. That did not tend to encourage any respect for legal tribunals. How much less respect then will there be for a tribunal of this kind which is a non-legal tribunal and whose proceedings are to be conducted in secret? The Dáil will recollect that the Minister, after agreeing that the report on which a man is interned is to be placed before the Appeal Council, subsequently said that there might be cases where confidential reports would have to be withheld, notwithstanding the fact that there is now a Section in the Bill ordering the Minister to produce those reports to the Appeal Council. It has always been an honoured principle, and should continue to be even in a time like this, that if once a man gets out by order of a Court or a Tribunal established by the law of the day, nobody should have the right to question that decision. Unless that feature of the Appeal Council is removed, unless the feature whereby a Minister can override his own nominees for secret reasons is removed, unless it is made mandatory that the persons appointed shall be persons wholly independent of the Executive, it is much better

not to have an Appeal Council at all, and so long as the Section remains in its present form I shall certainly vote against it.

Mr. JOHNSON: I want to support the view Deputy Gavan Duffy has expressed, that the Section, by pretending to be something which would facilitate prisoners in their desire for release is really not going to do that with any effectiveness, but is rather going to do greater harm than any good there might be in the desire of the Minister. I do not believe that with the deletion of this Section there would be any less chance of prisoners being released. I believe the Executive Council can find ways and means of making inquiries into the case of a prisoner without the setting up under this Bill of an Appeal Council. It is quite within the province of the Minister even without this Section to call into his assistance three persons, or three times three persons, to advise him as to whether the evidence on which the person has been detained is of any value or not, to meet the prisoner and to examine him with a view to testing the evidence under which he was originally detained. It is better for the prisoner that he should know that the responsibility for his detention is without question in the hands of the Executive Council. The setting up of an Appeal Council, with such limited powers and low status as the Council provided for in this Section, would not be of any merit, and would, as a matter of fact, prejudice the prisoners, because they would feel that there was greater danger in making the appeal to a Council which had no authority to release. They would feel more confident if they were going to appeal to the men who put them in, and had power to retain them, rather than appealing to another Tribunal which had no power either to release or detain, but which would deceive them into thinking that there might be an extra chance of being released if their cases were considered by such an Appeal Council. It is quite illusory. It is no value in the Bill. There is nothing to prevent a Departmental Committee of the same kind being established without the authority of the Bill. Therefore, as I see it, the Bill would be less harmful with this Section deleted than with it in. It is like a false coin which would have the pretence of legitimacy but would not

have the value of the real currency. It is better that people should not be deceived into thinking that the currency was valid, even though by chance an odd person were able to pass the false coin. I support the views expressed by Deputy Gavan Duffy against the acceptance of this Section, as I believe it is harmful, and not beneficial.

CATHAL O'SHANNON: I should like to support Deputy Gavan Duffy in his view that this Section should not be retained in the Bill for the reasons stated both by him and by Deputy Johnson. The very title given to the Councils in the Bill is misleading. When the British set up a somewhat similar Committee they had at least the decency to declare that it was an Advisory Committee. The Ministry has not done that in this case, but has called these Councils Appeal Councils. In ordinary law and for ordinary offences when a prisoner is convicted by a lower Court he has a certain remedy and can appeal to other Courts. Citizens generally understand that they have such a right of appeal to other courts. So that the very title of the Bill itself, if not from the strict legal sense, at least in the ordinary accepted sense of the word, means that the body so designated can reverse or vary the decision of a body from which an appeal is made. That is not so in this case. The Minister has gone to great pains to show that in no sense of the word are these courts at all. They have no powers and no authority, beyond the power on the request of a prisoner to inquire, not so much I should say into the innocence of the prisoner, but into the reasons which seem good to the Executive why that prisoner should be detained. I submit that the whole thing is deceptive and that it will be fairer to the internees that the deception should not be practised, no matter how good the intention of the Ministry may be in practising that deception. Legal and other fictions have their use and their purpose. I suggest that this particular deception has no purpose except to mislead the prisoners, and not only the prisoners but the ordinary citizen outside, who may think from a surface view that there is something of real value to the internees in these Councils. We are not even informed, although the Minister has thrown some light on the work of the

Councils, of their personnel, except that one shall be a qualified legal gentleman. We are not informed either by the Minister of the number that he proposes or suggests to set up. There are I suppose anything from 10,000 to 12,000 prisoners, who under the Bill have the right to request an investigation by one of these Councils, but we have no idea at all, and can form no idea, of the length of time any one of these Councils might reasonably give to the investigation of the case of a particular prisoner.

It is obvious that if you are to do anything to deal with ten thousand prisoners more than one Council will have to be set up. If more than one must be set up, then how many? And what are the regulations by which they should be conducted? If there are more than one it is a fair assumption, I think, to make, that the practice of one Council may differ very considerably from the practice of another Council. We know very little about them except what the Minister has told us, and what little we do know about them has not given us any confidence in them. On the contrary, it has made them appear naked and unashamed. For that reason I beg to support the attitude of Deputy Johnson and Deputy Gavan Duffy in opposition to this Section.

Mr. O'CONNELL: I intend to vote against this Section for the reasons that I have already indicated, speaking on an earlier amendment, namely, that I think the Bill would be quite better without this Section. There is no freedom to the prisoner in these appeals, and I think it would be fairer to the prisoner not to have these Appeal Councils which, in the circumstances and as outlined, could only be farcical in their operations. There are many men whose future position may be determined by the manner in which they are dealt with by these Appeal Councils. A man, for instance, may be in employment and may be interned, and his employer, not knowing these Appeal Councils as we know them, and thinking they are equivalent, in every way, to a regular Court of Inquiry will, and possibly quite naturally, form the opinion, that here you have a Court of Inquiry set up to try the prisoner. If the prisoner fails to appeal to that Court, as some of them will decide not to appeal, the employer may come to the conclusion that the

[Mr. O'Connell.]

man is, therefore, guilty and not worthy any longer to hold the position he has held, and he will be removed from that position. His guilt will be assumed, and he will be dismissed.

In saying that I am not speaking altogether hypothetically. Deputy William O'Brien, and others, told us how farcical were appeals to the Sankey Commission under the British regime. I think I am right in saying that the Government at the time used that Committee or Commission, or whatever it was called, to remove Civil Servants from their positions. If I remember rightly, the position taken up by the then Government was that any prisoner who failed to appeal to the Sankey Commission, or any prisoner who appealed to the Sankey

Commission and whose case was turned down, could not be restored to his position in the Civil Service. His guilt was assumed although, as Deputy O'Brien told us, some of these men, having gone three or four hundred miles to attend the Commission, were asked questions that had nothing to do with their internment or detention. That is the danger I see in these Appeal Councils. If all the amendments that had been moved to this Section were accepted, they might have been of some use, but as the Section now stands, even with some amendments in it, it is more of a danger than otherwise to the prisoner, and therefore I intend to vote against this Section.

Question put: "That Section 4, as amended, stand part of the Bill."

The Dáil divided: Tá, 40; Níl, 13.

Tá.

Liam T. Mac Cosgair.
Gearóid Ó Súilleabháin.
Uaitéar Mac Cumhaill.
Seán Ó Maolruaidh.
Micheál Ó hAonghusa.
Domhnall Ó Mocháin.
Séamus Breathnach.
Pádraig Mac Uaighaigh.
Peadar Mac a' Bháird.
Micheál de Duram.
Seán Mac Garaidh.
Risteárd Ó Maolchatha.
Pilib Mac Cosgair.
Micheál de Stainosa.
Domhnall Mac Cárthaigh.
Maolmhuire Mac Eochadha.
Eoin n'Altáin.
Sir Séamus Craig.
Gearóid Mac Giobáin.
Liam Thrift.

Eoin Mac Néill.
Pádraig Ó hÓgáin.
Pádraig Ó Máille.
Seosamh Ó Faioleacháin.
Piaras Béaslaí.
Fionán Ó Loingsigh.
Séamus Ó Cruadhlaoidh.
Cristóir Ó Broin.
Risteárd Mac Liam.
Caoimhghin Ó hUigín.
Próinsias Bulfin.
Séamus Ó Dólaín.
Próinsias Mac Aonghusa.
Éamon Ó Dúgáin.
Peadar Ó hAoláin.
Séamus Ó Murchadha.
Liam Mac Sioghaird.
Tomás Ó Domhnall.
Earnán de Blaghd.
Uinseann de Faoite.

Níl.

Tomás de Nóglá.
Riobárd Ó Deaghaidh.
Tomás Mac Eoin.
Seoirse Ghabháin Uí Dhubhthaigh.
Liam Ó Briain.
Tomás Ó Conaill.
Aodh Ó Cúlacháin.

Séamus Eabhróid.
Liam Ó Daimhlin.
Seán Ó Laidhin.
Cathal Ó Seanáin.
Domhnall Ó Muirghessa.
Domhnall Ó Ceallacháin.

Motion declared carried.

SECTION 5.

(1) Any person found guilty on indictment of any of the offences mentioned in Part I. of the Schedule to this Act may be sentenced to suffer death or penal servitude for any term not less than three years.

(2) Every person convicted by a Court of summary jurisdiction of any of the offences mentioned in Part II. of the

Schedule to this Act shall be sentenced to suffer imprisonment with hard labour for the term of twelve months, and to pay a fine of fifty pounds and, in default of payment of such fine within one month after conviction, to suffer imprisonment with hard labour for a further term of six months to be added to and commence on the expiration of the said term of twelve months.

(3) Every person found guilty on indict-

ment of any of the offences mentioned in Part II. of the Schedule to this Act shall be sentenced either—

- (a) to suffer penal servitude for a term of three years and to pay a fine of not more than one hundred pounds nor less than fifty pounds and, in default of payment of such fine within one month after sentence, to suffer penal servitude for a further term of one year to be added to and commence on the expiration of the said term of three years ; or
- (b) to suffer imprisonment with hard labour for a term of not more than two years nor less than one year and to pay a fine of not more than one hundred pounds nor less than fifty pounds and, in default of payment of such fine within one month after sentence, to suffer imprisonment with hard labour for a further term of six months to be added to and commence on the expiration of the first mentioned term of imprisonment.

(4) Every male person who shall be convicted by a court of summary jurisdiction or found guilty on indictment of the offence of robbery under arms as defined at No. 6 in Part II. of the Schedule to this Act, or of the offence of arson as defined at No. 7 in Part II. of the said Schedule shall (unless the Court is of opinion that, owing to the state of health or advanced age of such person, corporal punishment could not be inflicted on him without permanent injury to his health), in addition to the punishment prescribed in the foregoing sub-sections, be sentenced to be once privately whipped subject to the following provisions :—

- (a) in the case of a person whose age does not exceed sixteen years, the number of strokes at such whipping shall not exceed twenty-five and the instrument used shall be a birch rod ;
- (b) in the case of any other person, the number of strokes at such whipping shall not exceed fifty ;
- (c) in each case the court in its sentence shall specify the number of strokes to be inflicted and the instrument to be used ;

(d) such whipping shall not take place after the expiration of six months from the passing of the sentence ;

(e) such whipping to be inflicted on any person sentenced to penal servitude shall be inflicted on him before he is removed to a convict prison with a view to his undergoing his sentence of penal servitude.

(5) The jurisdiction of a court of summary jurisdiction in respect of any of the offences mentioned in Part II. of the Schedule to this Act shall not be ousted by reason of the title to any corporeal or incorporeal hereditaments or any lands or premises being drawn into question.

Mr. GAVAN DUFFY: I move amendment 33 on the Order Paper.

ACTING CHAIRMAN (Mr. Nicholls): On the instructions of the Ceann-Comhairle, this amendment has been altered to read as follows :—

To insert before Section 5 a new Section as follows :—

“(1) From and after the passing of this Act it shall be the duty of every County Council within whose area persons shall be detained in custody without trial under this Act to appoint a Committee consisting of such number of persons of good standing in the locality as the Council shall deem necessary, having regard to the number of persons to be detained in custody without trial in such area.

(2) The members of every such Committee and each of them, shall from time to time and at frequent intervals visit every place of detention for which they are appointed and hear any complaints which may be made to them by persons confined therein, and, if asked, shall do so privately ; they shall report to the Minister for Home Affairs and to their Council upon any abuses which they may find and upon any matters of pressing necessity.

(3) Every member of such a Committee shall at all times have free access to every part of the place of detention for which he is appointed, and to every person detained in custody without trial therein, and free access to all the books of every such place of detention.

(4) In this Section the expression

[Mr. Nicholls.]
 'County Council' shall include the Corporation of a County Borough."

Mr. GAVAN DUFFY: I accept the Chairman's ruling with a good grace as always. A rose is as sweet by any other name. When we cannot call a place of internment a Bastille in an Act of Parliament, we certainly can call it so in our ordinary speech. I rather fancy that had this amendment been allowed to go to the Dáil in the original form in which I proposed it, with this naughty French word, that the insertion of that word, that name, would have commended itself to the Executive Council themselves, seeing that they have always told us that they believe in calling a spade a spade. The object of this amendment is a very simple one. It does not depend upon what we call places in our Acts, and I quite willingly omit the appellation from the Section. The object is to let in a little daylight in these places of internment, mainly in the interests of the prisoners, and also in the interests of the Free State. I received, and I suppose other Members have received a copy of a resolution passed on the 5th day of this month by the Waterford County Council. That County Council resolved:—

"That we cannot accept General Mulcahy's statement as sufficient answer to our demand for an independent inquiry into the conditions prevailing in the Free State prisons, and we reiterate our demands for an inquiry with special reference to suspected cases of ill-treatment of individual prisoners, and that copies of this Resolution be sent to the Members of Parliament for Southern Ireland, and to all County Councils."

Mr. WHELEHAN: On a point of Order, what is the Parliament of Southern Ireland? This is not the Parliament of Southern Ireland.

General MULCAHY: On a point of explanation, the statement of mine referred to in that resolution is the report of the Red Cross Committee that visited the different jails or prisons here.

Mr. GAVAN DUFFY: As to the point about Southern Ireland I am merely quoting what the resolution says.

As to what the Minister for Defence has stated I did not know what particular enquiry was referred to, and it is immaterial. The point is that a County Council in this country after twelve months of Civil War should pass a resolution of this kind. Deputies have also received the very unpleasant statement issued under the name of Alderman Murphy, containing allegations as to treatment of prisoners recently, after an attempted escape. For a long time past we have been accustomed to receiving various reports as to ill-treatment of prisoners in various places where they are held by the authorities. The immediate question is not whether these reports are true or false, whether they are well founded or utterly groundless. I have myself often refrained from giving publicity to reports of the kind because of the impossibility of verifying them. The important point is that it is very generally credited that prisoners have been subjected to ill-treatment and it is bound to be credited so long as your prisons are Bastilles—so long as your detention camps are kept in such a way that no human being who is not in the employment of the State or who does not receive special permission *ad hoc* can go inside. This amendment is intended to draw attention to the necessity of getting away from this appalling policy of secrecy which has been the mistake from the beginning in connection with these prisons. I should have thought it would have been obvious to the Ministry, and to those who support them, that a policy of that kind defeats itself and must defeat itself. One was glad to read the report of the Red Cross Committee or rather of the Red Cross delegate who visited the prisons and found them very satisfactory, and stated that allegations that had been brought to his notice were untrue; but, when one came to the paragraph in which the delegate stated that he had not been authorised to question prisoners, one saw at once that the effect and value of his report was thereby very materially decreased. Is there any outside authority whatsoever entitled or to be entitled under this Bill to inspect places of detention or to visit a prisoner there? Or is it the view of the Executive Council that no such thing can be tolerated, otherwise the safety of the State would be endangered?

Mr. O'HIGGINS: What do you mean by "outside authority"?

Mr. GERALD FITZGIBBON took the chair at this stage.

Mr. DUFFY: I had in mind the delegates from the County Council. I should be glad to know who, if anyone from outside, would have any right to inspect?

Mr. O'HIGGINS: Does the Deputy mean from outside the country?

Mr. GAVAN DUFFY: No; some person outside the Executive and outside the prison; outside the present Government authority, some person such as visiting justices in the old times. I asked the other day that a Committee of Doctors should be allowed to inspect the prisons and prisoners. For technical reasons my amendment fell through, but not before the Minister had stated that this amounted to a vote of censure upon the Executive, and, therefore, should be resisted. That is not the spirit in which a matter of this kind should be approached. We are just as much entitled to believe that the interests of the State, to say nothing of the interests of the prisoners, require daylight as the Minister is to say that the interests of the State require that no persons of this kind should be allowed to visit the prisons. It cannot be to the interests of the State to have numerous stories spread about, and spread about simply because there is no means, when there is a real grievance, of testing it to the satisfaction of the public, and when there is a bogus grievance, there is no means of ascertaining that it is a bogus grievance. It cannot be satisfactory to this Dáil nor to the Executive itself. That is why I asked that a County Council, taking that as a normal representative body, should be authorised to appoint people for the express purpose of visiting the detention camps within the area of the Council. I asked that the Members or Delegates appointed by the Council shall be allowed to inspect and visit these bastiles frequently, and that they shall be entitled to see any person confined therein, and if asked to do so, to see any such person privately; that they shall report to the Minister for Home Affairs and to the Council that sent them, upon any abuses they shall find therein, or upon any matter of pressing necessity. This sub-

section is nothing new. This, and indeed the next sub-section are both modelled upon the Section giving express powers to visiting justices under the Prisons Act. The statute about visiting jails expressly says that prisons should be visited, and the prisoners shall be seen privately if that is asked for. It expressly says, as in the next sub-section, that there shall be free access to every part of the prison and to every person detained in the prison and to all the books in the prison. I want the Dáil to realise that this proposal is not revolutionary. If the Minister were to say that for some reason or another the County Council is not a proper body to appoint visiting justices, let us have the matter dealt with in some other way. In the interests of the Executive and the State, it is necessary that someone who is not an Executive servant, and some persons who are not under the authority of the Executive as their officials, and who would in their visits represent the public, should have the authority to visit prisons and prisoners.

I would ask the Deputies to remember that in passing this Bill Dáil Éireann is doing something of a very unprecedented character. You are going to sanction for six months, or perhaps longer, the internment, without any trial whatever, on mere suspicion, of thousands of people. A good many have been in prison for twelve, eleven, ten months, and so on, and I can understand, although I disagree with the Ministry's view, that, during the active period they could not permit people to visit and inspect prisons. I do not think that the same case can be made now for keeping the prisons secret. I want to say quite frankly that a great deal of propaganda has been carried on in connection with the prisons which was unfair, but, as long as prisons are kept secret, that will continue inevitably. At the same time, there have been abuses which the fact of secrecy has made it impossible to go into, and which would have been remedied had some such proposal as this been adopted. I trust, in passing this drastic measure, the Dáil will do itself the justice of insisting that some such proposal as this shall be inserted in order to have a little fresh air and daylight in connection with these detention places, when we all know that the opposite policy is an exceedingly bad one.

The PRESIDENT: The Deputy has spoken at some length upon a subject of which, as far as I know, he has no information, he has no experience, and he is not in a position to give to the Dáil anything but a very exaggerated account of the condition of affairs in these internment camps. I was looking around the Dáil to see some person who had had experience of imprisonment, and the Deputy that I had in mind has gone out. I have had some experience of imprisonment. I recollect on one occasion when there had been some relaxation in Lewes, in 1917. There were there, 120 prisoners, and I recollect a song being sung by one of them. The song was, I think, "The Felons of our Land." I have not much knowledge of poetry or music, but, if my recollection is correct, there was some reference in that song to "dungeons deep." All the prisoners there wore convict uniform, and their laughter was loud and derisive when that particular part of the song was reached. Whether that was the song or not, I do not know, but those particular words were used. If the Deputy were there a great deal of his hallucination would, I think, have been dispelled. That was the case when imprisonment was certainly more severe. There had been a relaxation after the prisoners were taken from Portland and Dartmoor to Lewes, and conditions in Lewes were very much better than what they were in the other two places. The Deputy need have no misgivings about the Executive Council. The Executive Council, with great respect to the Deputy, does not require any assistance from the Deputy in so far as the treatment of prisoners is concerned. I am quite sure he means well, but most of the members of the Executive Council have got intimate knowledge of imprisonment, intimate knowledge of the propaganda that is got out of imprisonment, and intimate knowledge of the false, malicious, unfounded and utterly unreliable propaganda that is made, certainly in this case, about the maltreatment of prisoners. I know Alderman Charles Murphy. I know him well, and have known him for many years. I know his family, and he might, at least, have written that complaint to me; and, if there was anything in it, it would have been investigated. He could have written to the Chief of Staff, who was his friend and who did business with him for a

long time. Alderman Murphy is, I have no hesitation in saying, an honourable man, but, in internment camps and places like that, one's judgment is certainly not of a sane and sensible character, and it has not that flavour about it that it has when you are not in an internment camp.

Mr. GAVAN DUFFY: I would ask the Minister whether he does not think that particular complaint ought to be investigated, even if Alderman Murphy did not write direct.

The PRESIDENT: I do not promise that I will undertake to investigate a complaint made in that way. First of all, I do not know that Alderman Murphy has made that complaint. I have not had any intimation from him. I saw it on a typewritten sheet, only when I went outside, from a source hostile, and from a source which has no appreciation good, bad or indifferent, of Irish honour. What are we asked to do in this case? Accommodation is to be provided for people who have made their best effort to ruin this country, not to ruin the Free State Government, but to ruin this country; not to ruin the Saorstát, but to drag in the mire the name of Ireland and make it a reproach amongst the nations, and hold up to the whole world a picture of infamy, such as no nation has yet had to hang its head in shame in order to witness. We are asked now to make comfortable happy homes for the people who have destroyed more homes in twelve months than have been destroyed in any other country, in the same period, by the same number, with the same resources as they had got, and who covered themselves with the flag or label that it was a military proposition. We have men serving in the Army of the Saorstát who fought with these men in the old days, who were associated with them in Councils, political organisations, Gaelic League classes, and in every other social, industrial and political movement which has been in operation in this country for a long time. We have ten thousand prisoners, or over that number—prisoners taken when the hot passions of men were aroused, when they saw great national heroes shot before their eyes, and they were the prisoners taken after that. There may have been excesses; I quite admit it. There are bound to be excesses. I have

never yet heard of any country in which there were not excesses. I challenge any country to prove that there were less excesses anywhere than there were in this country by troops of the National Army, in any war, in any time, even in the time of the Crusaders.

ACTING CHAIRMAN (Mr. FitzGibbon): I am loath to interrupt any Deputy most of all, the President, but the question in this amendment is not the excesses alleged to be committed by the Army, but the propriety of having Councils to examine places of detention, and I think the President has wandered away from the subject matter of that amendment.

The PRESIDENT: I was seeking to prove that the people who are guarding the prisoners are soldiers, and that it is alleged against them that, in their sober moments when their passions are not aroused, they are guilty of certain acts calculated to make internment worse than imprisonment and calculated to bring discredit and dishonour on the Army and the Government of the country. I went on to show that even in cases where hot blood was aroused on the field of battle they did not commit these excesses and that in the ordinary course of their duties as soldiers at these places of internment it was asking too much to ask us to believe that in their capacity as jailers, or guards, they would commit the excesses which the Deputy says the representatives of the County Councils should investigate.

Mr. GAVAN DUFFY: On a point of personal explanation I was very far from making any such general charges against the Army as the President has suggested. I said that charges had been made about certain abuses in internment camps, but I made no such sweeping charges as those to which the President has referred.

The PRESIDENT: I was hoping that we were coming to a time in the public life of this country when Deputies, members of the Government, and other people in whom responsibility was reposed by the people would have sufficient moral courage to say "I do not mind that sort of twaddle; I am not going to listen to it." That is my attitude on the question of the prisoners. I have

given my reasons for it. I have seen imprisonment. I know, even in the short experience I had, some of the sufferings endured by prisoners—very much greater sufferings than even those alleged by people who have made this propaganda. I know, furthermore, what is an outstanding thing with regard to these sufferings, that the men who went through them were never men to picture them and to draw the attention of the nation to the fact that they had undergone these sufferings. We have come in for considerable criticism by reason of the fact that some deaths occurred. I regret these deaths as much as anybody, as much as any member of any family of any person who has died, but, I submit with great respect, ten thousand men are not kept in any place, in any city, in which deaths do not occur. In the City of Dublin, Deputies know—there are two representatives of the City of Dublin here, an Alderman and a Councillor—what the death rate is in the city. And I know what the conditions are under which certain people in the City of Dublin are living. One person who is now suffering from the effects of imprisonment, and another person who was a prisoner and who is now dead, went with me through the city and visited the nightly lodging-houses, and saw the conditions under which ordinary free citizens live. I know full well that the care and attention which our prisoners are getting at present would be a sort of seventh heaven of delight to those unfortunate persons that I have seen housed under shocking conditions. The Deputy will have to recollect in these cases that the position of the Government is not to say "No," and not to say "Yes" arbitrarily. These unfortunate denizens of these nightly lodging houses have got to pay in their taxes for the upkeep of these prisoners. Yet we are asked to allow inspections by County Councils and County Borough Councils of our jails. I wonder if any of these County Councils or County Borough Councils would take the time to visit the places I mention, and observe the conditions under which free people live in their own bailiwicks and examine their consciences and see what they did to improve these conditions. I know some of them who have done much. I know in the City of Dublin great efforts have been made. I know, furthermore,

[The President.]

while great interest has been aroused by propaganda regarding the conditions under which the prisoners are living, that a great many of these prisoners are not to be compared with that other order—I forget the name that Jack London called them, but I think it was the Submerged Tenth. Do these people ever consider that there was a very vast army of people who were unable to help themselves and who were going to be plunged below the submerged tenth down to the submerged twentieth by reason of their activities? I hesitate to believe for a moment that the men at present in the National Army would be guilty of any inhumanity towards prisoners, and I hesitate to believe that the Army Council, constituted as it is, would be guilty of such dereliction of their duty and I am not satisfied that the allegations such as have been made should be noticed to the extent of which they have been noticed. A report has been published from the Red Cross Organisation which makes a claim from their observations that the treatment of these people was all that could be desired. It makes it plain that they did not themselves appreciate their own duties as prisoners. The Deputy will recollect that facilities were afforded for personal cleanliness and that these facilities were not availed of. Is not that an incredible thing to say about idealists? Idealists there are amongst them but any idealists I ever came across were not willing to have posted on the hoardings of the city or published in the columns of the newspapers such slanders on their country, and libels on their own countrymen, to make life easy and comfortable, to make a nation upon which they did such severe wrong liable for making their existence, while in internment, comfortable and happy while they were there.

CATHAL O'SHANNON: With all due respect to the President I do not think he has given reasons why the Dáil should not adopt Deputy Gavan Duffy's amendment. Everybody, or almost everybody who has had prison experience, and a great many who have not had that experience will agree that imprisonment does lend itself to various forms of propaganda, and it is just to be expected that the friends of the prisoners of the President should improve if anything on

the friends of the prisoners of the recent past. But is that any reason why, when a suggestion is made that the present Executive should re-adopt in another form, certain provisions of certain previous Acts relating to the visiting by authorised people of the prisons and places of detention under their care—

Mr. O'HIGGINS: Authorised by whom?

CATHAL O'SHANNON: By responsible public authorities. All that the President says about the conduct and character of the Army and of that portion of the Army to which is entrusted the guarding of prisoners may be all very well true. I am not questioning it for a moment, but if it is all so true what is the reasonable objection then to the admission of a panel of visitors such as is provided for in this amendment? There is no objection that I can see to it, none whatever. As I remarked the other day, it is not necessarily a reflection either on the conduct or character of the Executive Council or the military authorities that such Visiting Committees should be set up. It is part of the ordinary procedure under the ordinary prison system before the present and recent strife in Ireland. At various times under the British and other Governments they themselves set up not only Committees something similar to those Committees, but actually *ad hoc* Commissions to inquire into the conduct of prisons when there were complaints that everything was not quite all that it might be in those prisons. None of them ever suggested, I think, that the making of this inquiry by someone independent of the Executive, not employed by the Executive, even if they reported unfavourably on the conditions of persons, really meant that there was a national or wholesale condemnation of that particular Government's conduct in its prison service. In all those things, of course, I quite admit time, circumstances and occasion must be taken into consideration, but I submit that if time, circumstances and occasion are taken into consideration in those matters now that the balance of argument will be in favour of something like what is provided for in the amendment. It is really perhaps only a reversion in another form to a practice elsewhere, and in other and quite recent times. The Executive Council should have

nothing to fear from an investigation into these matters; on the contrary, it should have everything to hope from it. If the Executive is in a position, as it feels itself to be in a position, to pat itself on the back because certain visitors from the International Red Cross should visit certain prisoners and did not positively condemn the treatment of those prisoners, how much more to the credit of the Executive Council would it not be if such Committees as these were in the position that they would be allowed to go in and report that everything was good and things nice and proper so far as the Executive Council could make them so? Now, the President has touched all our hearts with his contrast between the conditions in the common lodging houses in Dublin and the prisons. When he referred to them he did not say anything that was new to some of the Deputies here, or anything new to people outside. While I admit he was one of those who did his little bit to help, I want him to remember that there are very many people even in the worst slums in Dublin, even in the worst conditions in Dublin — it is not creditable to Dublin or to Ireland that there should be such a thing; it is not creditable to civilisation anywhere that the prisons, the prison services, and the conditions in prisons in any country should be so far above the conditions which prevail amongst those who are referred to as the Submerged Tenth—who would prefer to die in starvation under the worst conditions rather than to live in comparative ease and comfort and plenitude without their liberty. The President and every other Deputy who has been in a prison knows that no comforts of prison were able to compensate him or anybody else for the loss of liberty, even if that loss of liberty were only for a time. It is not a good reason why he should not accept this amendment.

Mr. JOHNSON: We have been urged to pass this Bill a dozen times by references to the desirability of passing from a state of disorder, of armed rebellion, a state of war, to a state of peace, and to make that transit as orderly as possible, and as easy as possible. I submit in accord with that desire that this motion should be supported. During the state of war it was considered necessary by the Executive

Council that people should be imprisoned and that there should be no inspection; there should be no access to those prisoners by people outside the prisons, because of the state of war, because of the armed rebellion, because of the danger that would arise from the in-coming and the outgoing of civilians. And let us assume that the Ministry were justified in that contention, in the transit to a state of peace. It is asked that Committees equivalent to Committees which actually exist in time of peace should be established, that some body comparable with the Visiting Justices should be set up by the County Councils to visit internment camps and prisons. That I contend is consistent with the declared intention of the Minister in introducing the Bill to pass as gradually and as easily as possible to a state of normality. The President has emphasised the report of the Red Cross Committees Delegation. While that may be very satisfactory to the President, I really do not think it is a document that ought to give so much satisfaction to him. I would have been much better pleased, and I really expected a much more satisfactory document than that which the President has referred to us, in confirmation of the claim he has made as to the desirable condition of these camps. But really that is not the point. The camps may be perfect; there may not be the shadow of reason for a complaint about the conduct of the camps, but nevertheless it is desirable that the public should have some means of knowing whether that is true or not, even independent of the statement of the Minister. The Minister has just grounds for asking that the public should accept his word, but unfortunately in this imperfect world there is no man whose word is taken absolutely by every person, and in this country there is quite a large proportion of the population doubtful of the statements that have been made on behalf of the Ministry in regard to matters for which the Ministry is responsible. We are all apt to say that the things we are responsible for are all right, that they do not deserve criticism, but rightly or wrongly the public do not take us at our own valuation. And if the Minister wants to have his word in a matter of this kind accepted implicitly, the establishment of Committees of this kind, to confirm his

[Mr. Johnson.]

claim, is the way to ensure that the public will have confidence in statements made on behalf of the Executive Council.

No doubt, as Deputy O'Shannon said, there are thousands of people who would be very glad of the accommodation, the attention, the food that is provided to the people in the internment camps, even without going to the people of the abyss, even without going to the Submerged Tenth. There are many people who are giving all their strength for wages, and who are not getting sufficient wages to feed themselves in the way that we are assured the prisoners are fed. But surely that is not the point, surely, it is a reasonable request that in a place where 1,000 prisoners are detained, or 2,000, or 5,000 that somebody representing the public, outside the Executive, should have access to those places, even if only to consider the sanitary conditions. That, too, has been denied, and yet we know that when attention was called here to a glaring case, immediately remedies were found, but they were found because there had been some publicity. It is with a view to securing and assuring that there shall be publicity of grievances, because then the remedy will speedily follow, that it is desirable to embody such a section in the Bill, so that the public, through their representatives, shall have some right of inspection, and that there shall be some contact between the prisoner and the public by means of which a grievance, if it is a well-founded grievance, can be made public. If it has in normal times been found necessary to appoint Justices to visit prisons, when there has been no overcrowding, when there has been no abnormal circumstances attending the imprisonment, surely it is not unreasonable to claim that in abnormal times when there has been admittedly overcrowding, that there should be some public right of supervision over the conditions under which untried prisoners, uncharged prisoners, innocent prisoners in many cases, have been interned.

That is not an extraordinary charge. It is not a want of confidence in the Ministry. It is a reasonable proposition, and it should commend itself to any Government or any assembly which desires to keep proper contact and proper

control over matters under its authority and under its administration. The Dáil applauded Deputy McGoldrick to-day when he referred to his faith in the elected representatives of the people. Here is a chance for Deputy McGoldrick and those who support him in that view of proving their faith in the elected representatives of the people, because the County Councils are also the elected representatives of the people.

Mr. O'HIGGINS: Elected for what?

Mr. JOHNSON: To look after the conditions of life within their area; to look after the sanitation within their area, to protect the public health within their area.

Mr. O'HIGGINS: It is well to know that.

Mr. JOHNSON: And in the case of the County Borough of Dublin to appoint prison visitors within their area. That is what they were elected for, and I ask the Minister to have faith in the elected representatives of the people.

The PRESIDENT: I would like to ask the Deputy, if he is aware of any action taken by any of those bodies recently on that particular subject—the election of representatives.

Mr. JOHNSON: I do now know what the President is referring to.

The PRESIDENT: I am referring to the appointment of Justices by local authorities. Is the Deputy aware that on a recent occasion a local authority refused to appoint those representatives?

Mr. JOHNSON: I am not aware of it.

The PRESIDENT: It would be well that the Deputy should know something about these bodies before he talks about them.

Mr. JOHNSON: The Minister is responsible for those bodies more than I am. The Minister has been a member of one of those bodies, and he knows more about them than I do.

Mr. O'HIGGINS: Hear, hear.

Mr. JOHNSON: The Minister has not yet had the courage to come to the Dáil and say he is going to abolish all the local bodies. They are elected, and the

Minister has brought before this Dáil a Franchise Bill which desires that the same people who elect the Members of the Dáil shall also elect members of the local bodies.

ACTING CHAIRMAN (Mr. Fitz-Gibbon): The question of the Franchise Bill cannot arise on this.

Mr. JOHNSON: I agree, but I think the Minister invited that retort.

ACTING CHAIRMAN: I am inclined to agree with you.

The PRESIDENT: It was very handy to put in that retort when there was no answer to my question.

Mr. COLOHAN: I desire to support this amendment to set up Committees to inquire into the state of the prisons and internment camps. I will cite a case that will prove the necessity of these Committees. On the 3rd May last I asked a question of the Minister for Defence about a young lad named Cardwell, 13½ years of age, who was taken out of Naas military barracks, and who was wounded in the neck. The answer I got to that question was:—

“Leo Cardwell was arrested by troops from Naas at his home early on the morning of the 24th April. At the house there were also taken six recently escaped internees, and firearms and ammunition. With the others Cardwell was brought to Naas military barracks at about 9 a.m. on the morning of his arrest. Because of his age, which he gave as 13½ years, it was not intended to detain him and he was kept apart from the others. It would appear that whilst in custody, and some time during the night of the 24th-25th April, he received a slight wound in the neck. In connection with the occurrence a member of the Army is now under arrest awaiting trial by court-martial, for the convening of which steps have already been taken. Pending the result of the trial it is not possible to make a statement as to the facts of the occurrence.”

I have received no information as to how the court-martial went. On the 6th of June I wrote “Will you please let me know the result of the court-martial which was held in connection with the wounding of the boy Leo Cardwell. Also if he has yet recovered from his wound, and if he is likely to be affected

with a stiff neck, and if he is now at liberty.”

I got a formal acknowledgment on the following day, 7th June. I wrote on the 22nd June, and I got another formal acknowledgment on the 23rd.

Now what is the use of the Minister speaking about how the prisoners are treated when this young man could be taken out of the barracks at the dead of night and wounded in the neck by one of the military. Then he says there is no necessity for Committees to be appointed to see that everything is right in these internment camps and prisons. Is he afraid that these Committees will find out that what he is saying is not true? If everything is right I cannot see why he should object to these Committees being set up.

Mr. DAY: I also wish to support the amendment. Like other Deputies, I suppose, I am every week receiving what is commonly called propaganda. I do not know how much of it is true or how much of it lies, but I would like to know exactly how much of it is true. Some of this propaganda in connection with the Cork Courthouse came before the Public Health Committee in Cork, of which I am a member. There were very grave allegations made as to the conditions under which the prisoners existed. I am very glad to say—although it was not until after considerable trouble—the medical officer of health in Cork was given permission to visit the place and that he made a fairly satisfactory report as to the conditions. If the medical officer had not been allowed to visit the place and give that report every member of the Public Health Committee, and practically every citizen of Cork would believe that what was contained in that propaganda sheet was the truth. For that reason I say that it is the business of the Government to see that the representatives of the people get at the truth. We want to make the truth heard, and we want to know what amount of truth is contained in this propaganda. There is no member of the Dáil or no member of a County Borough or County Council, I believe, who wishes to know anything but the truth as to the conditions in those places. I myself have got several complaints and I have made application to the General Officer Commanding in Cork for permission to visit.

[Mr. Day.] those places to find out the truth for myself, as I thought it was my duty to do. That permission was refused to me on every occasion. Therefore I could only come to the conclusion that something was absolutely wrong there. The Corporation appointed a Deputation to visit the prison and when the application was made to the General Officer Commanding that permission was also refused. If there had been nothing to conceal why was this permission refused? As public representatives we simply want to know exactly what is going on inside there and what exactly is the position of the prisoners, and to find out for ourselves what amount of truth is contained in this propaganda that was sent out. I know that that is my position anyway. I simply want to know what is the truth and what is false—the statements made from the Ministerial Benches or the statements contained in these propaganda sheets. For that reason I support the amendment.

Mr. O'BRIEN: I would like also to support the amendment, and I regret that the Minister in charge, or the President, is not prepared to accept at least the principle underlying the suggestion, even if they were not prepared to accept the text itself. It may be quite true, of course, that a great many of the stories circulated with regard to the treatment of prisoners are propaganda, but I would be very slow to believe that a man like Alderman Charles Murphy would make the statement that is being circulated—if he has made it—unless there were good foundation for it. I do not pretend to know Alderman Murphy as well as the President or other Deputies do, but I know him moderately well for eight or ten years, and I have always looked on him as a most honourable and upright man who would be incapable of making a statement which he did not believe to be true. We have had other statements also for which there must be some foundation, and whatever justification the Ministry may have felt in the past for refusing visits when the country was in a state of war, conditions are now considerably changed for the better, and they could well afford to give way on that and allow some visiting committee to go in for the purpose of verifying that statement that the prisoners are well and

reasonably treated. The President has referred, quite correctly, to the decision of the Dublin Corporation to defer the appointment of visiting justices. That is perfectly true, and if his objection, and the objection of the Minister in charge, is to the precise proposal that these visiting committees should be appointed by the county or borough councils, perhaps the Minister would agree to the principle of some visiting body, and, at a later stage, bring up a proposal that perhaps he himself would nominate a visiting committee, taking care to see that they were persons in whom the public would repose confidence. I would throw out that suggestion for consideration.

Mr. O'HIGGINS: Section 13 of this Bill provides: "That an Executive Minister may make regulations prescribing the prisons, internment camps and other places in which persons detained in custody under this Act may be detained; providing for the efficient management control and guarding of such prisons, camps and other places; providing for the enforcement and preservation of discipline amongst the persons so detained; providing for the prevention of the escape of any such person, and prescribing or providing for any other matter or thing relating to the efficient detention of such persons under this Act." I take it that that Section places very definitely the duty upon an Executive Minister of providing for the general efficiency and management of these places of detention. He will be answerable for that duty here to the representatives of the people, not to the representatives of the people, elected for Local Government purposes, but to the representatives elected with a broad national mandate to deal with matters of this kind. Some interesting expressions were used in the debate. "Somebody representing the public," said Deputy Johnson, and then, noticing the start of surprise on this side, he said, "I mean representing the public, outside the Executive." There seemed certainly to be an undercurrent, or an implication, throughout this debate that everyone represented the public except the Executive Council; that a county council represented the public; that even a body whom the county council might nominate would more amply represent the public than the Executive Council of the State or than the Parliament of the State. That is wrong.

Mr. JOHNSON: Is it? Is it wrong?

Mr. O'HIGGINS: It is quite wrong. Responsible government consists in placing upon a Minister or Ministers primary responsibility for a certain thing, responsibility to the elected representatives of the people, sitting in their Parliament. They should answer for all matters committed to their care—answer fully. If they fail to answer to the satisfaction of the representatives of the people, then the duty of the representatives of the people is clear, but instead of having the fullest discussion and the fullest inquiry here—

Mr. JOHNSON: They never had the means of getting knowledge.

Mr. O'HIGGINS: When did you ever ask for information and not get it?

Mr. JOHNSON: How can we get the basis of our information without access to the prisons?

Mr. O'HIGGINS: I do not quite follow the Deputy.

Mr. JOHNSON: The point is that the only kind of information you can get from prisons are these documents, which are alleged to be poisoned. We want to have a chance of getting truthful documents, and then if we find there are grievances we can raise them in the Dáil.

Mr. O'HIGGINS: Did you send those documents to the Minister for Defence?

ACTING CHAIRMAN (Mr. FitzGibbon): These comments back and forward are out of order. The Minister himself invites interruption by putting questions to Deputies.

Mr. O'HIGGINS: The county councils and the local bodies generally, were elected for a specific purpose. I do not know what the general view of the Deputies or of the public is as to the manner in which these duties are being performed but, at any rate, their duties are specified and well defined, and personally, I question greatly the wisdom of adding to their duties what is really the proper function of a responsible Executive Government. Let us consider the county councils and ask ourselves, whether, in the existing conditions, they are proper bodies to entrust this function to. Five-sixths of the County Council of

Kerry have been out in arms against the Executive Government of the State, elected by the people and responsible to the people, and they, forsooth, are to appoint a Committee of Inspection. If the county councils and the local bodies generally, concentrate on the particular duties for which they were elected I think that they will win general satisfaction and general approbation from the people. Deputy O'Brien asked for some acceptance of the principle that there should be inspection. Regulations will be made under Section 13. Personally, I see no objection to the principle of selected men, not in a paid capacity, being appointed by the Executive to visit places of this kind, but their appointment should be by the Executive and their reports to the Executive. This matter of the proper care and treatment of prisoners is Executive action, and such inspection of these places that takes place should be on behalf of the Executive. Deputies have insisted on talking as if the position here were what it was four or five years ago; they have persistently in their comments on this amendment, ignored the change; they have said "Whatever the British thought it right or expedient to do you should think it right or expedient to do."

CATHAL O'SHANNON: Not except it was right in itself.

Mr. O'HIGGINS: It may have been right in the particular set of conditions then, and it need not be right now. It may have been necessary or advisable in a particular set of conditions, and not necessary or not advisable now. The whole Executive machinery of this country is responsible now to the people of the country, through the people's representatives. There is not a single phase or aspect of administration which you are not entitled to raise, question and criticise here. If the matter of conditions within detention camps were raised here—if it had been raised, say, any time this six months past—do Deputies really believe that the Minister for Defence would have withheld or refused the fullest of full reports thereon?

Mr. JOHNSON: Yes.

Mr. O'HIGGINS: Surely that is his particular function, amongst other functions for which he was appointed by this Dáil, and for

[Mr. O'Higgins.]

which he is responsible to the Dáil. To suggest you should seek your information, not from him, but from some County Council, some local authority which is appointed, and select people at random from within these areas to visit a detention camp, well, that is simply a reversal of responsible Government, and simply consists in saying that local bodies elected for a very different purpose throughout the country shall, so to speak, be set to act as spies upon your Executive, and report to you as to the result. That is a position which I certainly will not accept in principle, or as it stands in the amendment. I do, as I say, accept this, that responsible citizens selected by the Executive, and not paid by the Executive, shall visit these places and report.

Mr. O'BRIEN: May I ask the Minister would he limit the selection of such persons to supporters of the Government—that is to say would he propose to exclude from such Visiting Committees persons who might not be supporters of the Government?

Mr. O'HIGGINS: I do not know what the Deputy means by "supporters of the Government." Supposing the duty of selection lay on me, I would not think of selecting people who approved of armed revolt against the Government, or of people who approved of outrages such as the burning of homes.

Mr. O'BRIEN: No; but, say, people who believed in the establishment of a Republic, and in whom prisoners have confidence, and who would not approve of the outrages or attacks. Would he approve of the appointment of a Labour member of the Dáil, for example?

Mr. O'HIGGINS: I want to be quite frank with the Deputy. There are certain offences set out in the schedule of this Bill, and I would not dream of appointing any person who I thought had any sympathy whatever with these offences. It is not a political matter, but sympathy with any of these acts or these crimes would, to my mind, automatically exclude for selection any person. But, if the Deputy means this, and I think he does, that a decent law-abiding responsible citizen ought to be eligible for selection utterly regardless of his political views, then I think that that ought to be the case.

Mr. DAVIN: Deputy O'Brien has asked the Minister a very definite question as to whether or not he would exclude from such a Committee, a Labour member of the Dáil. That question has not been answered.

Mr. O'HIGGINS: It could not be answered specifically. If persons were being selected they would not be selected *qua* a Labour member of the Dáil, but would be selected *qua* responsible law-abiding citizens.

Mr. DAVIN: The refusal of the Minister to answer that direct question could be taken that we would be regarded as sympathetic to armed revolt.

ACTING CHAIRMAN: As a matter of fact, this questioning backwards and forwards to the Minister is quite irregular. It does not arise on this amendment. The Minister, in replying on the motion for the amendment, said that when he came to Section 13 he was quite prepared to appoint a visiting committee. It is quite irregular to cross-examine him now as to what the constitution of that committee would be, and certainly nothing he said was capable of the interpretation that he regarded any Deputy or Deputies as sympathising with crime.

Mr. DAVIN: I take it that there is no difference of opinion as to whether or not any member of the Dáil could be regarded as other than a law-abiding citizen. I am one of those persons who have been in receipt of the propaganda referred to, but for obvious reasons I have never mentioned the matter in the Dáil before. The Minister asked did we send this particular class of propaganda to the Minister for Defence. Well, I took it for granted that the propaganda referred to was received by every member of the Dáil, and by the Minister for Defence himself.

Mr. O'HIGGINS: I never saw it.

Mr. DAVIN: However, even though the propaganda has not been received by the Minister himself, I am sure that he would desire that every possible ground for the removal of such complaints should be put on the one side, and that any such complaint coming to his notice, or to the notice of the Minister for Defence, should be inquired into. It appears to be the case that as every member of the Government party seems

to be satisfied with the Minister's explanation, they are in possession of other information, or have access to the places where these complaints are made, and in that way have some information at their disposal, or means of inquiry into these things, that we in these benches have not. We are, as far as I can see, here on sufferance, and can only get statements on these matters out of the Ministry by making a complaint, and in some cases do not succeed in getting the actual information looked for. That complaints are justified is, I think, beyond dispute. We had a case referred to here the other day by Deputy Everett, regarding the treatment of prisoners in Wicklow jail, and it was only as a result of that complaint, and not before, that the actual matter referred to was settled. I understand in that particular case the prisoners have since been removed to a place perhaps somewhat better than the place where they were complaining of their treatment. I would like to say that every reasonable ground for suspicion should be removed, but most of the clauses put a premium on suspicion. Many suggestions have been made in the various amendments for the purpose of having a better check over things such as have happened in the past, but every such suggestion has been turned down by the Ministry, and when made by us is taken as a vote of no confidence in the Executive Council.

Now I think that is not the right spirit in which an amendment with that intention should be received by the Minister. I say that because a case like the Wicklow case has only been dealt with after complaint. I think it is up to the Ministry to make a reasonable provision that such cases should not occur again and by accepting an amendment of this kind they would be making reasonable provision for such cases.

CATHAL O'SHANNON: The Minister rather deprecated the appointment of these Committees by such bodies as County Councils rather than by bodies such as would be set up by the Dáil or the Executive Council. He dealt, rather sharply I think, with Deputy Johnson upon that. He does not think it right that the County Councils should be considered as proper bodies for selecting such Committees as this. He instanced a procession of circumstances in connec-

tion with County Councils and particularly he quoted the Kerry County Council. Now the Kerry County Council is not a fair case because, unless I am very much mistaken, the Kerry County Council is in suspense and is not functioning owing to the activities of certain of its members. But legally and according to regulations approved and passed by this Dáil the heirs to the Co. Council of Kerry would be empowered by this amendment, if adopted, to appoint such Committees. The same would apply to any other County Council or Borough Council that happened to be suspended by the operations of another Act of the Dáil. Now I suppose that the legitimate heirs to the Kerry County Council, and to other suspended County Councils, would be entitled to make these appointments. There may be some doubt about that, but, at any rate, the argument of the suspended County Councils does not apply at all by any means. It is quite true, as the Minister says, that the circumstances of the times might make it advisable at one time to do a certain thing that may not be possible under the regime to-day. Quite true. Some of us are of opinion that an Act which might have been inadvisable, unwise and not justified six or twelve months ago might be quite advisable and wise enough and, from the point of view of public policy, justified now. I suggest to the Minister that he should take that point into consideration.

MR. LYONS: I am sure that Ministers who supported the Minister for Home Affairs, and also the Deputies who supported him in asking for an all-night sitting did so in the interests of the passing of this Bill, and they now show that interest by absenting themselves from the Dáil during our discussions. Deputy O'Shannon's last speech on this Bill was not heard by any of the Ministers because they were absent, and was followed by very few Deputies on the Ministerial Benches. I am not going at this hour to criticise those who ask for an all-night sitting, but I want to point out a few facts in support of this amendment of Deputy Gavan Duffy. It is intended to give power to the County Councils so that the Minister may be able to take into his confidence the duly elected representatives of the people in the County Councils. If the Govern-

[Mr. Lyons.]

ment are anxious to get the Bill through before morning one would imagine that the Government Benches would be packed with Deputies. We are here on these benches to a man ready to defend any amendment put forward by Deputy Gavan Duffy. Now with regard to the actual subject raised by this amendment the President declared that half the unfortunate people living outside in lodging houses were worse off than the prisoners interned.

Mr. DUGGAN: Are they not?

Mr. LYONS: There is a great deal of argument for and against. I think it is perfectly right, if Deputies hold that people outside are worse off than the prisoners, that this amendment should be accepted, and that their dwellings should also be inspected by Committees appointed by some such authority as the County Councils. This amendment does not suggest anything that the promoters of the Bill should fear; there should be nothing to fear from the people of the Saorstát if everything is as stated by the President, and by the Minister for Home Affairs. Why then not agree to this amendment? It would look as if there was something to fear, and that there was something wrong.

If the prisoners are treated as explained by the Ministers then there can be nothing to fear. So far as he is concerned he can allow any committee appointed by anybody to inquire into these matters. But we find that the Minister is up against allowing any committee to be appointed, or giving any Committee an opportunity of visiting the prisoners, and of seeing that doctors and sanitary officers and other officers requiring to visit these prisoners have the privilege of doing so.

Surely, the County Councils are bodies of men that could be trusted? If we can possibly get the Minister for Home Affairs to accept any amendment that will improve this Bill I am sure that our night's work here will not be in vain, but we find that the supporters of the Minister are just as hard and unreasonable as the Minister himself. It appears that the Minister will not accept the principle of this amendment unless he is able to assure himself that the persons who will be appointed under it are law-abiding citizens of the Saorstát. Furthermore he

is so strongly against the appointment of these County Council Committees that I am of opinion he imagines that the County Councils want to make a job out of these Committees and appoint some people who will have to be paid. I hope that is really not the view of the Minister, and that he will give the members of the County Councils the right to appoint these Committees. I can assure Deputies on the benches opposite, that there are patriotic men among the County Councils of this country. The people selected the County Councillors as they did the members of this Dáil. The members of the Executive seem to think that they are the employers of the people, but they would soon find that the people are really their masters. The people are sovereign and the day will come when they will prove they are the masters of the members of the Executive Council as well as of the members of the Dáil. I support this amendment, because it gives a facility to the County Councils to see to the welfare of the prisoners, and because it classifies them as genuine citizens of the State. It gives them an opportunity to visit prisoners interned in their areas. The amendment provides that it shall be the duty of every County Council within whose area persons are detained in custody without trial under this Bill to appoint a Committee consisting of such number of persons of good standing in the locality as the Council shall deem necessary, etc.; it places a duty upon this Committee and it specifies that duty which amounts to this that it will advise the Minister for Home Affairs or the Minister for Local Government or some other members of the Executive Council with regard to the treatment of prisoners.

That does not in the least take the power out of the hands of the Executive Council. If we are going to classify, or if, in your opinion, you think this amendment ought to classify county councillors as law-abiding citizens, then if you did that you should certainly accept this amendment. In speaking of the County Councils I was going to say you have thirty-two. I am sorry we have only twenty-six, but we are looking forward to the time when we will have thirty-two and when we will be all together again. But out of twenty-six County Councils you mention one Council that seemed to have advised people to

take up arms against the Government selected by the majority of the people of this Saorstát—

ACTING CHAIRMAN (Mr. FitzGibbon): Deputy Lyons has now considerably exceeded his time allowance. He has spoken far beyond the time limit. I thought a little time ago he would finish his peroration.

Mr. MILROY: I want to congratulate the last speaker upon the brevity and lucidity of his speech—

Mr. LYONS: On a point of order I think I have the floor still.

ACTING CHAIRMAN: The Standing Order says "that in Committee no Deputy shall speak more than ten minutes at a time." You have spoken fifteen minutes.

Mr. LYONS: Well, I will allow Deputy Milroy to go on for the sole purpose of getting another ten minutes later on.

Mr. MILROY: I do not want to interrupt the proceedings, but I simply could not allow the occasion to pass without congratulating the last Deputy upon the brevity of his remarks, in view of the fact that it was he suggested that we should continue our discussion to a late hour to-morrow morning, when he said that the speeches on this side of the Dáil would not in any way impede the progress of legislation.

Mr. LYONS: Neither will they.

Mr. MILROY: I want also to compliment the Deputy upon the lucidity of his remarks. They are so lucid that when he sat down I think a few of us really understood what was the drift of his remarks.

Mr. O'BRIEN: I believe you.

Mr. MILROY: There is one other point I want to make, and it has not been made by anybody else—

Mr. JOHNSON: By anybody else?

Mr. MILROY: Wait until I make my point. The point I want to make is this:—that the Deputies on the other side of the Dáil seem to fail to realise that they are sitting in an Irish Parliament.

Mr. LYONS: So they might when you have Bills like this.

Mr. MILROY: They seem to think that they are sitting in the benches in the English House of Commons facing Sir Hamar Greenwood instead of facing an Irish Minister. The discussion to-night in regard to this measure, and this amendment, seems to be absolutely in a world apart from realities. The Minister who is in charge of this Bill has only one consideration, that is to preserve the security of life and liberty in this country. Every utterance from the other side of the Dáil seems to be based on the belief that he was concerned with assailing life and liberty in this country. The remarks from the other side of the Dáil would have been very pertinent to a discussion of this kind if they had been confronting the British Ministry in the English House of Commons. Let them remember that they are sitting in an Irish Parliament, and that those whom they are attacking and criticising are the custodians of order and government, of life and liberty in this country, and let them adapt their arguments and their criticism to that fundamental fact.

CATHAL O'SHANNON: The Deputies on this side of the Dáil realise the fact quite as well as Deputy Milroy. If I may be allowed to say so they have been directing their criticism and their comments and their suggestions to the Bill before the Dáil, and not at all to the Minister, either as a person or as a Minister, except in so far as he happens to be a Minister who is in charge of the Bill during its course through the Dáil. It is ridiculous nonsense for any Deputy to suggest that we here forget that we are in an Irish Parliament, and that we are not facing the gentleman to whom he refers. But we are not prepared, and I hope that no party and no section that ever gains representation in the Dáil will ever be prepared, to neglect the first duty of public representatives, and that is to give close and careful examination to every measure that comes before the Dáil, and to assist, as we are endeavouring to assist the Ministry of the day, in producing a measure that will be satisfactory. The Deputy's remarks have not at all been addressed to the amendment before the Dáil. I am not going so far as to say that his remarks were quite out of order. But I can quite understand that he felt he had got something to say and he wanted

[Cathal O'Shannon.]

to say it. Now we would have welcomed a reasoned and fair, or even a little beyond fair, criticism of any of the points that have been made on this side in support of the amendment, if that Deputy or any Deputy had made an effort to reply. But no, he did not do anything of the kind. He leaves it all to the Ministry. And then, because some of us have the damnable audacity to attempt to assist the Minister we are accused of something that in certain periods in Irish history were considered not very creditable to Irishmen..

Mr. JOHNSON: Deputy Milroy has broken the spell. We have been accused on this side of doing something which was only worthy to be done in the British House of Commons, and he reminded us that we were not facing Sir Hamar Greenwood. Sir Hamar Greenwood even with all his enormities did not venture to introduce into the British House of Commons any Bill giving to the Executive, against the people, half of the power which is embodied in this Bill.

Mr. MILROY: Against the people.

Mr. JOHNSON: Against the people.

Mr. MILROY: This is for the protection of the people.

Mr. JOHNSON: That is the opinion of the Minister. I am quoting my own opinion—that the power that is given in this Bill to the Minister is against the people.

Mr. MILROY: What people?

Mr. JOHNSON: The Deputy has one notion of responsible government, and we have heard another theory of responsible government from the Minister, both of which are very interesting and very extraordinary. The Minister has only one consideration—to preserve the life and liberty of the people. Because of that, therefore, the Dáil must say, "ditto." The Dáil must not open its mouth. The Dáil must not utter one word of criticism, because the Minister in charge of the Bill has only one consideration—to preserve the life and liberty of the people.

Mr. MILROY: Hear, hear..

Mr. JOHNSON: It has often been said that the road to hell is paved with

those good intentions. I venture to say that Deputies have in the past held the view that their business was to realise they had a responsibility to their constituents, and to express their views even though they were in criticism of the views of the Minister. Surely, we are not at that stage that because the Minister has good intentions, everything that these good intentions leads to must be wise and beneficent? It is an utterly false doctrine. We have a right to assume that the intentions of every member of the Dáil are good and just as well-intentioned as those of the Minister; but if we differ in the practical application of those good intentions, are we to be freed from criticism? The good intentions are not going to save the Minister from criticism, and good intentions are not going to save a Bill from being examined. Deputy Milroy should not pretend that he thinks because one Minister is sacrosanct, every other Deputy must bow down and worship.

Mr. MILROY: I do not think any Minister is sacrosanct.

Mr. JOHNSON: I am glad you agree with me in that.

Mr. MILROY: The Ministers are quite aware that I have no such delusions about their infallibility—

ACTING CHAIRMAN (Mr. FitzGibbon): Or sacrosanctity.

Mr. JOHNSON: There is one thing Deputy Milroy and I can agree upon, and that is that one would hope to hear in this Assembly, the organ of public expression, that those views of Deputy Milroy would occasionally find expression. I want to deal seriously with the question raised by Deputy O'Brien. He suggested as a reasonable modification of this amendment that the Minister might himself nominate a committee of inspection which would have the confidence of the people generally, and the Minister agreed with the principle; he said that such a committee would be required to report to the Minister. I am not sure whether that was intended to be exclusive, or whether it was to be a report to the Minister as a matter of form and order, and that the report would in the normal course of affairs be made public. If the Minister grants that I would advise the Dáil to accept that suggestion,

but if, on the contrary, it is not intended to publish these reports, then there is nothing gained. The whole point of this amendment is, as I understand it, to ensure that public confidence shall reside in the conduct of the servants of the State, and especially those who are in charge of the prison camps, and that public confidence can only be ensured when there is some supervision, and when the reports of such supervisors as may be appointed can be made public. I do not want to delay the Dáil by dealing to any extent with the County Councils; but one cannot refrain from asking Deputies when did they lose their faith in the County Councils? I think Deputy Milroy will remember, and surely the President will remember, that the County Councils were to be the units out of which were to be formed the National Council. It was to be the basis of the legislative authority. But now none so poor as do them reverence. I wonder what was the date of this loss of faith. Was it the date of the last election for which Deputies were so closely responsible when they knew from first-hand knowledge what they were doing? I want to say on this that I would not like it to appear even with any stretch of the imagination that there was any desire on these benches to act dilatorily or to delay the Dáil. We are honestly desirous of discussing this measure thoroughly and carefully, and to amend and improve it. The sooner that can be done the better we shall all be pleased, and I think, perhaps, the President can rely on the Deputies sitting on the opposite benches, judging by precedent, and I hope no Deputies sitting on these benches will even give an excuse for Deputies to think that they are acting in a dilatory fashion.

Mr. O'CALLAGHAN: Never, never.

Mr. JOHNSON: We do desire to amend this Bill. We have put down a series of amendments that have been carefully thought over, that are honestly intended to improve the measure, and I hope the Dáil will give thorough consideration to them. I trust it will not be thought that because Deputies here are obliged in the absence of any contrary argument to continue the discussion for the purpose of enlightening the Dáil, that there is any desire to obstruct the ordinary legislative machine.

Mr. GAVAN DUFFY: Before the

Dáil votes on this matter, I should like very briefly to deal with two points made by the Minister for Home Affairs. I need not deal with what the President said because he was very completely disposed of by that other very great artist—Deputy Lyons. The Minister for Home Affairs deprecated the idea of allowing prisons to be visited by persons appointed by the Kerry County Council. This proposal does not speak of the Kerry County Council, but of the County Councils in whose areas these established internment camps are situated, such as Gormanstown, the Curragh, and so forth. My impression is that all these established camps are situated in areas where the Government is very thoroughly in control and in areas where nothing can be said against the County Council, such as has been said by the Minister against the Kerry County Council. The Minister before he volunteered to accept the proposal in principle to a certain degree argued that it was not necessary on the grounds that in this Dáil from the Ministers here we could get all the information necessary. The Minister is under a complete misapprehension if he thinks that the case given by the Labour Benches is unusual. I will give him another. Two or three weeks ago I wrote to the Minister for Defence in connection with the death in prison of a Doctor who was a member of the last Dáil. I wrote privately in order that it should not be said that this was a matter of making propaganda. The circumstances connected with the death as to the non-admission of the wife and relatives were circumstances which required explanation, and I wrote fully to the Minister. I had a very courteous reply to the effect that the matter would receive attention, but I had nothing more. Another Deputy asked a question on the subject in the Dáil a day or two ago, and got a very inadequate and unsatisfactory reply. That is just an instance to add to the other instances that have been given in order the Ministers may realise that if they think they are doing justice to complaints in connection with prisons and detention camps they are labouring under a delusion. Matters of that kind ought to be dealt with promptly. I am unable to get information which one would think would be volunteered very readily, and with all possible speed. The Minister gave an undertaking of a somewhat vague character. I do not profess to know how

[Mr. Gavan Duffy.]

far he committed himself, but he did not altogether object to inspection from outside, and he contemplated persons who would have a right to go into the prison. If that is the Minister's frame of mind I would invite him to agree to get fit and proper persons to undertake that work. If the County Councils are not allowed to undertake it, it should be the members of this Dáil who are medical men. Yet can I be blamed if I have misunderstood the Minister's undertakings when I recollect that only yesterday a proposal to depute members of this Dáil and of the Seanád who are medical men, nearly all of whom are strong supporters of the Government, was vehemently objected to by some Ministers? If these are not proper persons to inspect, who are? If these are not proper people to allow to go into the detention camps, whom shall you consider proper persons? In these circumstances and owing to the vague manner in which the Minister dealt with questions from the Labour Benches as to the character of persons he would allow to inspect the prisons, I cannot accept the assurance he has given as being anything like satisfactory.

The PRESIDENT: May I intervene to explain that there are few people in this Dáil or outside of it who have a longer experience of the business of local authorities than I have. I understood that my business in connection with local authorities was concerned with matters which affected local authorities. I would remind the Deputy who has just spoken and who is perhaps the greatest of all artists either in this or any other assembly, that the roads of this country are a very serious consideration for the County Councils and when they master that and if we are lax in our duties and responsibilities and in the particular things which concern us here—

Mr. GAVAN DUFFY: Do I understand the President to suggest that the

prisoners will remain in prison until the roads are made right?

The PRESIDENT: I say if we are not capable of discharging the duties of our office it will be for the County Councils to take on the extra work and assume responsibility where we are deficient. Apart from the roads there is the question of rates, and apart from the rates in the County Council which the Deputy instanced there is a grave state of civil commotion. What have been the efforts of the particular County Council in question. Did they concern themselves with matters of vital importance to themselves? If any damage has been done there the County Council, or their successors, will have to levy rates but in the plenitude of their administrative capacity they find time to tell us how to do our work and correct the omissions and incapacity of the Ministry. We do not require it. I have a recollection, Sir, that on the last occasion when I was a member of a local authority a question arose as to the appointment of Visiting Justices—that is what they were called at the time—gentlemen who had taken the oath of allegiance to Deputy Gavan Duffy's friend.

Mr. JOHNSON: Name.

The PRESIDENT: And the late Minister for Finance, God rest his soul, sent down word that he did not see any objection to appointing them, but the Minister for Home Affairs sent down a message that we might not appoint them. The one, I expect, is reaping the result of his labours; the other is one of our guests; and if he did not consider that the prisoners held by the foreigner should be provided with visitors at that time, what right has he now, or anyone on his behalf, to ask us to appoint visitors to see how he is getting on wherever he is at this moment?

Amendment put.

The Dáil divided: Tá, 13; Níl, 42.

Tá.

Tomás de Nógla.
Riobárd Ó Deaghaidh.
Tomás MacEoin.
Seoirse Ghabháin Uí Dhubhthaigh.
Liam Ó Briain.
Tomás Ó Conaill.
Aodh Ó Cúlacháin.

Séamus Eabhróid.
Liam Ó Daimhín.
Seán Ó Laidhín.
Cathal Ó Seanáin.
Domhnall Ó Muirgheasa.
Domhnall Ó Ceallacháin.

Níl.

Liam T. Mac Cosgair.
Gearóid Ó Súilleabháin.
Seán Ó Maolruaidh.
Micheál Ó hAonghusa.
Séamus Breathnach.
Pádraig Mac Ualghair.
Peadar Mac a' Bháird.
Deasamhain Mac Gearailt.
Micheál de Duram.
Seán Mac Garaidh.
Risteárd Ó Maolchatha.
Pilib Mac Cosgair.
Micheál de Stáineas.
Domhnall Mac Cárthaigh.
Maolmuire Mac Eochadha.
Earnán Altún.
Liam Thrift.
Eoin Mac Néill.
Liam Mac Aonghusa.
Pádraig Ó hOgáin.
Pádraic Ó Máille.

Seosamh Ó Faoileacháin.
Seoirse Mac Niocaill.
Piaras Béaslai.
Fionán Ó Loingsigh.
Séamus Ó Cruadhlaoich.
Risteárd Mac Liam.
Caoimhghín Ó hUigín.
Proinsias Bultin.
Séamus Ó Dóláin.
Seán Mac Eoin.
Proinsias Mac Aonghusa.
Eamon Ó Dúgáin.
Peadar Ó hAodha.
Séamus Ó Murchadha.
Seosamh Mac Giolla Bhrighde.
Tomás Ó Domhnaill.
Earnán de Blaghd.
Uinseann de Faoite.
Séamus de Burea.
Micheál Ó Dubhghaill.
Croistoir Ó Broin.

Amendment declared lost.

Mr. WILLIAM O'BRIEN: I move to report progress.

Mr. O'HIGGINS: I am afraid I could not agree to that suggestion.

Mr. LYONS: I second that motion.

Motion made and question put to report progress.

The Dáil divided: Tá, 13; Níl, 42.

Tá.

Tomás de Nógla.
Riobárd Ó Deaghaidh.
Tomás MacEoin.
Maolmuire Mac Eochadha.
Liam Ó Briain.
Tomás Ó Conaill.
Aodh Ó Cúlacháin.

Séamus Eabhróid.
Liam Ó Daimhín.
Seán Ó Laidhín.
Cathal Ó Seanáin.
Domhnall Ó Muirgheasa.
Domhnall Ó Ceallacháin.

Níl.

Liam T. Mac Cosgair.
Gearóid Ó Súilleabháin.
Seán Ó Maolruaidh.
Micheál Ó hAonghusa.
Séamus Breathnach.
Pádraig Mac Ualghair.
Peadar Mac a' Bháird.
Deasamhain Mac Gearailt.
Micheál de Duram.
Aifric Ó Broin.
Seán Mac Garaidh.
Risteárd Ó Maolchatha.
Pilib Mac Cosgair.
Micheál de Stáineas.
Domhnall Mac Cárthaigh.
Earnán Altún.
Liam Thrift.
Eoin Mac Néill.
Liam Mac Aonghusa.
Pádraig Ó hOgáin.
Pádraic Ó Máille.

Seosamh Ó Faoileacháin.
Seoirse Mac Niocaill.
Piaras Béaslai.
Fionán Ó Loingsigh.
Séamus Ó Cruadhlaoich.
Croistoir Ó Broin.
Risteárd Mac Liam.
Caoimhghín Ó hUigín.
Proinsias Bultin.
Séamus Ó Dóláin.
Seán Mac Eoin.
Proinsias Mac Aonghusa.
Eamon Ó Dúgáin.
Peadar Ó hAodha.
Séamus Ó Murchadha.
Seosamh Mac Giolla Bhrighde.
Tomás Ó Domhnaill.
Earnán de Blaghd.
Uinseann de Faoite.
Séamus de Burea.
Micheál Ó Dubhghaill.

Motion declared lost.

Amendment 34.—"In sub-section 1, line 18, to delete the words 'death or'"

CATHAL O SEANAIN: Ba mhaith liom iarraidh ar an Dáil glacadh leis an leas rún seo agus na focla "death or" a bhaint amach as. Baineann an rún leis an pionús atá ceapaithe i gcóir coirthe airithe. Is é mo thuairim nach cheart san am seo do'n lá an pionús seo a choimeád san roinn seo. Táim in aghaidh an phionús seo san áit seo, ar a lán cúiseanna. B'feidir go bhfuil gádh le pionús mar seo anois agus arís acht, mar sin féin, pionús barbarach atá ann. Ní feidir le duine ar bith a rádh gur cóir nó gur ceart duine a chur chun bháis no iarraidh ar dhuine eile duine a chur chun bháis. Tig beatha ó Dhia agus ní cheart do dhuine beatha a bhaint fhád's nach feidir leis í a chruthú. Mar sin fein, caithfidh mé admháil gur riachtnach, corr-uair, daoine a chur chun bháis. Acht do réir mo thuairime ní ceart an pionús mór seo a chur ar dhuine fhád agus tá pionús níos lúgha fóirstineach do'n choir. Is é mo thuairim gur maith an prinsiapiol é gan níos mó pionús a chur ar dhuine na an pionús atá fóirstineach do'n choir. Táim cinnte gur leór an pionús eile atá ins an roinn seo agus ar an adhbhar sin nach bhfuil gádh le pionús an bháis. Iarraim ar an Dáil na focla seo a bhaint as an Bhille.

In moving the deletion of the words "death or" in line 18 of sub-section 1, section 5, I am asking the Dáil to remove from the scale of penalties prescribed in the Bill the death penalty. The section, as a whole, lays down the punishment for offences in the Schedule. The first portion lays down the punishment of death or penal servitude for any term, not less than three years, for any person found guilty on indictment of any of the offences mentioned in Part I. of the Schedule. Now, while on principle opposed to the death penalty—the most terrible penalty that can be exacted by any State or community—I admit freely and frankly that there are occasions and there may be offences for which the commonsense or, perhaps, the sense of expediency of society, has found that the death penalty would be, if not the right penalty, at least the advisable penalty.

An LEAS-CHEANN COMHAIRLE at this stage took the Chair.

* **Mr. O'SHANNON:** For all that, I

think the penalty on the whole is a relic of barbarism. I am strongly convinced that it can be only justified if no alternative penalty is sufficient to meet the case. If there is an alternative penalty, then that alternative penalty should be applied and not this particular penalty. The same principle, I think, holds good for other penalties. The penalty should not be excessive for any offence. If there is any alternative to the penalty of penal servitude for a particular offence, and if it happens that the penalty of penal servitude is too heavy a penalty, then the lighter penalty is the one which should properly be imposed. Sub-section 1 prescribes the death penalty for the offences mentioned in Part I of the Schedule. They are all offences connected with armed revolt against the State. There are times when armed revolt against the State results in actions which take away the lives of citizens—perhaps of innocent non-combatant citizens, perhaps of combatant citizens, enrolled for the defence of the State.

There are other times when the offences mentioned in Part I. of the Schedule do not result, and perhaps may not be likely to result in the loss of life. There are known to history, and in the experience of States, insurrections and even rebellions that have not resulted in the loss of life. In such cases I hold that the death penalty should not be exacted. The Sub-section permits the exaction of the death penalty even where life has not been taken by revolvers against the State, and I think that is conceivable even where the loss of life is not threatened, or at all events not immediately or directly threatened by the revolt against the State. For that reason I think it is wrong in policy, and wrong in principle, to keep the death penalty in this Section. I think there is sufficient authority under other Statutes for the exaction of the death penalty when the death penalty is justified. I do not think as yet that it is justified in this particular Section, and I ask the Dáil to remove it from the Section.

Mr. O'HIGGINS: I do not propose to accept the amendment which the Deputy has moved. Every State reserves to itself the power of life and death in such circumstances, and to deal with such occurrences as are mentioned in Part I. of the Schedule. It seems to me to be

unnecessary to argue the matter. Deputies are aware that we, ourselves, at an early stage of our existence as a State have felt compelled to resort to the death penalty. I think we would be unwise to abandon that power. I merely draw Deputies' attention to the fact that the death penalty in this case is not mandatory but permissive; that on indictment a person found guilty of the offences mentioned in Part I. of the Schedule could be sentenced to death or to any lesser penalty.

MR. O'CONNELL: There is one point I would like to draw attention to, and it is that all the matters mentioned in Part I. of the Schedule are matters which arise out of, and are incidental to, a state of war existing in the country. This is a Bill giving powers to the civil authorities who will deal with its administration. Whatever argument may be put forward to justify the military authorities in the course of quelling an armed rebellion or an armed revolt in exacting the death penalty, no such argument, I maintain, holds good in this case. If the offences mentioned in Part I. of the Schedule are being committed, then it can be held that a state of war exists in the country, and the military authorities will be competent to deal with that state of war, and to take measures, even the extreme measure of exacting the death penalty, to deal with that particular situation. I think it is extremely objectionable that when the civil authorities come to deal with these cases that this power should be given to them in the Bill for the offences specified.

MR. FITZGIBBON: This section really adds nothing, or practically nothing, to the existing law. The death penalty is applied only to the three offences in Part I. of the Schedule. Every one of these offences is treason against the State, and that is a crime for which the death penalty has always been inflicted. There are no improper or irregular courts to try these cases, because this Clause provides that if any person found guilty on indictment—that means that he is indicted and tried by a jury of his fellow-countrymen—does not deserve the extreme penalty, then in that case if the Judge thinks fit that the extreme penalty ought to be inflicted, I do not know what other punishment we could really impose. If

the person was tried, not by indictment for offences under this Bill, but tried on indictment for treason and found guilty of treason against the State, the judge would have no option but to order him to be hanged. But under this Bill you allow him to get off by a lesser penalty if it is thought that a lesser penalty would serve the case, and there is a provision to send a man to penal servitude for three years. It seems to me that this Clause is really an amelioration of the existing law so far as these three offences are concerned. It is to be remembered, too, that the prisoner will be tried by a jury of his own fellow-countrymen, and not by an extraordinary tribunal.

CATHAL O'SHANNON: I am sorry I cannot agree with Deputy Fitz-Gibbon in his argument. The offences mentioned in Part I. of the Schedule are undoubtedly of the nature of treason against the State, but it is not, I believe, the fact that treason against the State is always punished by the death penalty. It may be that in many States persons found guilty on the charge of treason against the State are liable to the death penalty. No doubt the Section is permissive, as the Deputy points out, and is not mandatory. But, why then have it inserted in this particular Bill? Sufficient provision is already made elsewhere by other Statutes for the infliction of the death penalty, under Statutes that are in a way permanent Statutes. This Bill, if we accept all the statements of all the Ministers, and of those who support it, is temporary and transitory. Why then is it necessary that it should be provided for here? I do seriously submit that there are times and occasions when a verdict of guilty pronounced by a Judge on the finding of a jury in a case of treason against the State should not be punishable by the death penalty. If there is an alternative that will carry out the purpose of the State, and of the State authorities, I submit that that alternative ought to be adopted, and not the extreme penalty. The only argument in favour of such a penalty is the argument of necessity, and I submit that time, circumstances, and occasions are factors by which we must judge of the necessity. All through the discussions on this Bill I have maintained that if it is to serve any useful purpose whatever, that purpose is to make easy

[Cathal O'Shannon.]

that passage from war, or a kind of war, to peace. For that reason I am strongly of opinion that nothing that is not intended to be done, and nothing that is superfluous or unnecessary, should be brought into the Bill at all, but that everything that is possible should be done to make the transition easier and to help to restore public confidence and public tranquility, and to remove suspicion and distrust. Now, the infliction of the death penalty can only be as a deterrent or as a punishment. I think we have had enough experience in this country to know that, on the whole, the death penalty as a deterrent, or as punishment, has not been a glorious success. It may be claimed that recent executions have crushed an insurrection. I beg still to doubt that. I believe that the insurrection has been crushed largely because of its own inherent wrongness, and not because a particular measure was adopted against certain of its adherents. It is a fact well known in the experience of States, and in political experience generally, that the infliction of the death penalty for political offences, so far from being a deterrent, has rather acted as an irritant, and has helped to continue and to perpetuate actions against States which might otherwise have not been taken. I do seriously submit that in this period, when to a considerable extent, if passions are not exactly dying down, violence against the State is dying down, that it is a wrong time to dangle before the minds of the people this particular penalty.

Mr. JOHNSON: I wish to draw the attention of the Dáil to what is embodied in this sub-section. "Any person found guilty on indictment of any of the offences may be sentenced to suffer 'death.'" Amongst the offences mentioned are attempting to threaten a person in furtherance of armed revolt. I think it is unwise to empower a Judge to inflict the death penalty for that offence, because it is so difficult to prove an attempt to threaten a person in furtherance of an armed revolt. It is almost impossible to prove an attempt to threaten. You might be able to prove the threatening, but to prove an attempt at threatening, I submit that is very difficult. It must be a hidden thing, if it is only an attempt to threaten, and that, I submit, is a matter which it would be difficult to prove.

There is also a penalty for attempting to remove any property in furtherance of such revolt. That is much easier to prove than an attempt to threaten, but I submit it is not a crime of such enormity as to warrant the infliction of the death penalty or, the power to inflict the death penalty. The range of offences even in the three paragraphs of Part I. of the Schedule, all of which offences may subject the offender to the death penalty, is so wide that I think the deletion of the two words proposed ought to be accepted. We are not dealing with the Schedule, but inasmuch as the paragraph sought to be amended directs attention to the Schedule and to all the offences in the Schedule, and as some of these offences are of a comparatively minor nature, I would ask the Minister to accept the amendment, and to remove the death penalty from this Bill.

Mr. DAVIN: This Bill, as has already been explained, makes provision for dealing with offences during the transition period, the period between the time when the people acted before they thought, and the period we are now passing through, when the people will think before they act again.

It is quite obvious from the action which the Government has taken during the latter stages of the recent trouble when a state of war might have been said to have been going on, and when the Government for any reasons did not carry out the execution policy in the case of some very responsible leaders who fell into their hands, that that was a proof at any rate that the policy of executions was not the best policy in the interests of the Government itself. I think that is one reason why for this short period, when there is some hope that the same thing will not happen again, this thing should not be dangled before the eyes of this country. The Clause is undoubtedly permissive. I think it is a very unwise policy now when we should have some hope of a brighter outlook that this thing should be brought up again. The Minister said it was unnecessary to argue the matter and that it would be unwise to abandon the power, which I take it is maintained in the existing law, in respect of any clause which may be inserted in the Bill which is only for a temporary period. The Minister should take into considera-

tion that many of the things which are mentioned in the First Schedule and defined here are things which were encouraged by themselves during the last four of five years. I think that in the hurry of legislation, people who have done wrong and have admitted that they have done wrong, or whose leaders have admitted the unwisdom of the policy adopted, should be allowed some time to think before it will be assumed that they

are going to act again in the same way that they have acted for the last 8 or 9 months. I think it is unwise in the present transition period and when things are said to be normal to bring forward a measure of this kind to deal with the situation when the necessity does not exist for the putting up of such legislation.

Amendment put.

The Dáil divided: Tá, 13, Níl, 38.

Tá.

Tomás de Nógla.
Riobárd Ó Deaghaidh.
Tomás MacEoin.
Liam Ó Briain.
Tomás Ó Conaill.
Aodh Ó Cúlacháin.
Seamus Eabhróid.

Liam Ó Daimhín.
Seán Ó Laidhín.
Cathal Ó Seanáin.
Domhnall Ó Muirgheasa.
Domhnall Ó Ceallacháin.
Seoirse Ghabháin Uí Dhubhthaigh.

Níl.

Liam T. Mac Cosgair.
Gearóid Ó Súilleabháin.
Micheál Ó hAonghusa.
Seamus Breathnach.
Pádraig Mac Ualghairg.
Peadar Mac u' Bháird.
Deasmhumhain Mac Gearailt.
Micheál de Duram.
Seán Mac Garaidh.
Risteárd Ó Maolchatha.
Pilib Mac Cosgair.
Micheál de Staincas.
Domhnall Mac Cárthaigh.
Eamán Altún.
Gearóid Mac Giobúin.
Liam Thrift.
Eoin Mac Néill.
Liam Mac Aonghusa.
Pádraig Ó hOgáin.

Seosamh Ó Faoileacháin.
Seoirse Mac Níoeuill.
Piaras Béasláí.
Fionán Ó Loingsigh.
Seamus Ó Crundhlaoich.
Cristóir Ó Broin.
Caoimhghlin Ó hUigín.
Proinsias Bullín.
Seamus Ó Dólaín.
Seán Mac Eoin.
Eamon Ó Dúgáin.
Peadar Ó hAodha.
Seamus Ó Murchadha.
Seosamh Mac Giolla Bhrighde.
Tomás Ó Domhnaill.
Eamán de Blaghd.
Uinseann de Faoite.
Seán Ó Maolruaidh.
Maolmhuire Mac Eochadha.

Amendment declared lost.

(At this stage An Ceann Comhairle resumed the Chair).

Mr. FITZGIBBON: I beg to move "in subsection 2, line 22, to substitute the word 'may' for the word 'shall.'"

The subsection as it stands prescribes one single high water mark of punishment for all the crimes that are in Part II. and whether the person convicted is guilty of the extreme crime of having possession without lawful authority of firearms with intent to use them, arson, or the comparatively trivial offences of aiding and abetting in the sale of illicit liquor, he must get one cast-iron penalty of hard labour for 12 months or of a fine of £50 or in default of payment, hard labour for a further term of six months. It seems to me altogether beyond all reason to ladle out one common penalty which cannot be carried up or down for

all the offences in this Schedule in Section 2, from the most guilty down to the most technical crime of aider or abetter. I think some discretion ought to be left to the Court of summary jurisdiction before whom the man is tried, that where they are satisfied the guilt is a technical one they ought not to be compelled to inflict this extreme penalty which they ought to be bound to inflict on the most guilty person or the most hardened criminal. I am sure what was in the mind of the framers of the Bill was a desire to relieve those Courts of Summary Jurisdiction from the responsibility of having to inflict heavy penalties and a desire to place that responsibility upon the shoulders of this Dáil by suggesting that we should state these were to be the penalties and the Judge would say "Then I have no option." It seems to me that that is likely now as in the past to defeat itself

[Mr. FitzGibbon.]

and that a man's mind whether he be judge or jury revolts against the penalty the law compels him to impose. He has to salve his conscience one way or the other. We find in the old days when a theft to the value of 5s. was a capital offence, jury after jury found a man guilty of stealing a silver teapot worth 4s. 11d. when everyone knew it was worth £5, £10 or £20. They had to put in that value against their conscience in order that the penalty might not be imposed. Here you will have people brought up and charged for aiding and betting in the same way. Judges before whom they come, if they are people who are so weak that they may not be trusted to give a proper penalty, would be quite weak enough to decline to convict in the case of grave crimes. This compulsory infliction of a grave punishment for light crimes seems to me to be based on a want of confidence in our own Judges. I think they ought to have sufficient confidence in themselves in selecting a man that was sent down to be a District Judge and sufficient confidence in the District Judges whom they send to be able to trust those men to give a proper penalty where the crime is clearly proved before them. I hope the Government will see their way to accept this amendment and if necessary to modify the clause later on. I suggest they ought not to enforce this hard and fast penalty for every crime, no matter how grave or little.

Mr. O'HIGGINS: What happened in regard to those offences is that the maximum was brought down and merged in what we believed ought to be the minimum. Deputies will agree that those offences, set out under the twelve heads in Part II. of the Schedule, embody largely the kind of crimes that are menacing the life and the future of the country—one no less than the other. There seems to be a tendency to pick out there, as a comparatively minor or trifling offence, the paragraph dealing with poteen. I think that Deputies who so pick out that section fail to appreciate the position that has been reached in certain parts of the country in regard to illicit distillation, and fail to appreciate its results. If you take up the paper any day and find some particularly hideous or revolting crime, you will almost invariably find that

it has happened in the poteen area, where children going to and coming from school are reeling round the roads drunk with poteen. What chance have they of developing into decent, self-respecting citizens, when they degrade themselves so young? Man, we are told, is a rational animal. He is sometimes. He is not a rational animal when he gives himself up to the poteen craze. He divests himself of the only thing which distinguished him from the brute creation, and he becomes, in fact, a beast. Every unnatural crime, every bestial crime that is committed will be found within the zone of the illicit still. It does menace the life and the future of the country. No person who appreciates the extent of the evil, who appreciates its re-actions on a future generation, will think that it ought not to have been set out there amongst those other grave offences that are menacing peace and prosperity and stability here. So much for that.

This Bill has a lifetime of six months. We have felt that these coming months are likely to be particularly critical—critical intrinsically and critical in their re-action on the whole trend of affairs here in the future. We have said that that particular penalty ought to be imposed on a person found guilty of any of these crimes within the coming six months. The penalty was not fixed high. One could pick out offences from amongst these for which that particular penalty would be, fairly considered, a low penalty. But we brought down the maximum and merged it in what we believed was the minimum penalty that should be imposed by anyone with a proper sense of the gravity of these crimes, and their re-actions on the country. We made that mandatory rather than permissive. Because if, in the special circumstances, the Executive Council believed that particular crimes ought to be met with particular penalties, then they ought to say so. They ought to take upon themselves the responsibility of that conclusion. Having examined the position in the country, if they believe that particular offences stand out as particularly menacing to the Nation, and that certain penalties ought to be imposed, then they should say so in a mandatory fashion in their legislation, and not leave it simply to such accidental circumstances as the outlook of a magistrate here and a magistrate there to decide. There is something haphazard and casual and

fortuitous in that. Deputies may put hypothetical cases and say that one could conceive cases in which these penalties would be harsh. Deputies may picture the case of a man coming home from the fair, perhaps having got a certain amount of stone beer, and finding his house burning. He gets information that it was "A.B." up the road who came down and scattered petrol around the floor, and set fire to the house. He goes up the road and burns "A.B.'s" house in intense provocation. Deputies might say that for this offence, in face of such great provocation, this penalty or the other penalty mentioned in the Bill, would be excessive. The penalty is the penalty which it is felt should normally attach to that particular crime. If a Judge or a Magistrate, having carried out the law by passing the sentence, thinks that it would be right for him to make representations to the Executive to the effect that there were in that particular case, which was heard by him, mitigating circumstances—circumstances that would call for the exercise of the prerogative of mercy—then, no doubt, the Judge or Magistrate will make such representations. But we wish to set out here clearly that these ten or twelve offences are offences which are menacing the very life and future of the country, and we do not discriminate between them. In their own way and in their own proportions they are all equally grave in their effects and in their prospects if they go on unchecked. We set out those and lay down for them one single penalty as mandatory within the six months which constitute the lifetime of the Bill. I think that is a sound thing to do. I think if the Executive Council, having surveyed the situation and examined reports, believes that certain offences do really gravely menace the future of the country, they should take the responsibility on themselves of assigning a penalty which will be at once the maximum and the minimum and leave it to the discretion of the judge or magistrate to make such representations as he thinks it necessary to make in a particular case.

Mr. JOHNSON: This is a most illuminating speech and it is a most extraordinary doctrine. We have a list of offences of varying enormity and the Executive is to say what the sentence shall be in every case where an offender

is found guilty by a Court of Summary Jurisdiction. The sentence is to be fixed before-hand for this long series of varying offences and the Minister cites what, I suppose, is the precedent of capital punishment being the inevitable end, so far as the Judge is concerned, of a verdict of guilty. These offences, by the way, are all supposed to be of equal demerit, requiring the same sentence, such sentence to be imposed before-hand by the Executive Council. One of the offences is the possession of any land mine, or other similar explosive machine within the six months. What has been said about the possession of land mines recently in this Chamber? It is not a case of the possession of a gun or revolver, not even the possession of a bomb, which might have been accidentally left, but the possession of a land mine, punishable even after this Bill becomes an Act, and is in operation, by death at the instigation of the army. But in the transfer—at least in the corresponding powers that the Civil Authority is to take—the possession of a land mine is to be of equal enormity, in the mind of the Executive, with the putting on of a uniform, or any part of a uniform, of a soldier or policeman or having possession of a soldier's cap. If found guilty, the same penalty must inevitably fall upon the offender as if he were found guilty of being in possession of a land mine. Notwithstanding all the Minister says about the evils of potence and illicit distillation, I do not believe the Dáil thinks for a moment, whatever way it may vote—and I believe in this case the Dáil is going to vote against its convictions, though I would like to be disillusioned—that a person having possession of any illicitly-distilled spirits is guilty of an equal offence with another person who is in possession of a land mine. Is there any Deputy will say that they are equally criminal?

The Minister for Agriculture is capable of a good deal, in this particular sphere, but I challenge him to say whether the possession of a land mine, within the next six months, is not a greater offence than the possession of illicitly-distilled spirits. The punishment that is to fit those crimes is to be the same in any case and there is to be no alternative except, if you please, the Judge who does as he is told may, if he thinks well, make representations to the Executive, say that the law they

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passed was a very unwise and a very foolish one and pass animadversions on the Dáil or Oireachtas. That of course would be quite outside his authority but he is invited to do it, or at all events invited to tell the Executive that they should not be so foolish as to introduce into the Bill such a Clause and ask them to reconsider it. That is what he is asked to do in the Courts of Summary Jurisdiction. I wonder what is the meaning of this—"the maximum shall be the minimum and the minimum shall be the maximum." Those that are up shall be down and those that are down shall be up. I wonder whether the Minister has considered the application of Article 72 of the Constitution to this sub-section. Should a minor offence be classed as one which should entail imprisonment for twelve months with hard labour or imprisonment for eighteen months, with hard labour, provided the man has not got fifty pounds to spare? Can an offence which is punishable by such a sentence be classed as a "minor" offence? I suppose the Minister will argue that if this Bill becomes law, then these will be minor offences which are triable by law, but in that case I hope the Bill that the Ministers are supposed to be preparing, dealing with the powers of the Courts and the jurisdiction of the Courts, will provide us with some guidance for the future as to what is a minor offence and what kind of punishment is applicable to minor offences and what kind of punishment is applicable to major offences. That by the way.

I hope the Dáil will be enlightened somewhat more fully than they have been as to the real meaning of this grouping of all these offences of such varying quality and providing that they shall each and all be punishable by the same sentence.

I think there must be some more reason in it than that told to us by the Minister. He must have forgotten the essential thing, or can it be that it was merely a sporting leap in the dark; that they had no real reason for it, but thought that perhaps it was an easy way of getting over a difficulty, or that they had not confidence in the Justices they have recently appointed; that these Justices have not experience enough, and that they might be afraid of making mistakes in the infliction of the punish-

ment? Surely there must be some other reason than that vouchsafed to us.

Mr. HOGAN: Deputy Johnson is anxious for my opinion on the question as to whether the offence of having a land mine is an offence of equal gravity with having a bottle of poteen in one's possession. I can answer the question simply, and say that it is not. If you consider the two offences in normal circumstances, or in anything like normal circumstances—perhaps I am hardly right in saying normal circumstances, but even in present circumstances, the offence is not the same. Deputy Johnson has evaded, or missed, the real point of the speech of the Minister for Home Affairs if he were serious in putting that conundrum to me. The Minister for Home Affairs was careful to explain that we had tried to impose the minimum penalty. That may offend the Deputy's fine sense of justice, but I think it will not offend the sense of justice of any practical man who takes a look at the present situation, or at the very large number of crimes that have been committed and are being committed every day, and who realises that the Executive must deal with all these crimes as if they were interdependent and connected, as they are. Now, it is not the same offence, and Deputy Johnson can argue from that, even from our point of view, that we are imposing a lesser penalty on certain offences than we could impose, because we consider that twelve months' hard labour is no more than an adequate penalty for the keeping of poteen. He is welcome to all the consolation that he can get out of that. He wants to prove us illogical even from our own point of view. If he wants to prove us illogical in this matter he must show that we are not inflicting, or that we are not asking the magistrates to inflict, a sufficiently heavy penalty on certain offences, because that is what it comes to. If he once admits the contention of the Minister for Home Affairs that the penalty set out here is the minimum penalty for the smallest offences, then our only offence in the matter is this, that we have not inflicted a sufficiently high penalty for other offences. He is welcome to all the kudos and all the consolation he can get out of that, but before he comes to the conclusion that we have committed any great error I would

ask him to realise two things. The first is that we have not inflicted the same penalty for all the offences set out in the Schedule.

Mr. JOHNSON: Nobody said that.

Mr. HOGAN: We have not, as I say, inflicted the same penalty for all the offences set out in the Schedule. The Deputy gave me at least the impression that we were inflicting the same penalty, but we are not. We are inflicting one penalty on anyone who is convicted, after summary trial, of any of the offences set out in the Schedule, and another penalty for anyone convicted on indictment. We draw the line there. We put the less serious offences on one side, and the more serious offences on the other, so that our regulations are not so sweeping as one would be led to believe if one came to the conclusion that we were inflicting the same penalty for all offences, whether tried summarily or by indictment. As the Minister for Home Affairs pointed out, it is open to the District Justice to make representations to the Executive to exercise the prerogative of mercy. If there are any cases where the offence is a purely technical offence, and I can readily conceive a man being innocently in possession of a bottle of poteen, and if in such a case a magistrate is of opinion that the offence is merely technical and that there is no moral guilt, he can point that out to the Executive who have undertaken a good many responsibilities and they will undertake this responsibility. There is the prerogative of mercy vested in someone, and it can be exercised. That is my answer to the question as to whether the possession of a bottle of poteen is the same offence as having possession of a land mine. There is another point that goes to the root of the whole thing. The Deputy may not agree with me, but I genuinely believe this, that men who were seizing other people's land, men who are enriching themselves quietly and privately under cover of the Irregulars when the Irregulars were burning houses and generally causing confusion, were just as bad as the Irregulars and morally were worse than them. He is a very poor type of criminal who will go out for no reason to burn his neighbour's house, but the man is as big a criminal morally who will go out while his neighbour's house is burning and steal a cup

and saucer out of it. That sort of criminal takes advantage of the fact that some other criminal is burning the house, and while the house is burning he steals perhaps a loaf or a cup and saucer. No one pretends, other things being equal, that it is the same offence to steal a spoon or a cup and saucer as to burn a man's house, but though the law must make a distinction is there any difference, from any honourable or decent point of view, between the man who burns his neighbour's house and the man who takes advantage of the fact that another criminal is burning his neighbour's house to steal a spoon out of it? I put that conundrum to Deputy Johnson, and I invite him to answer it.

That is the kind of thing that is at the bottom of all this, and that is what is behind this Bill. I suggest that that goes to the root of the whole matter. Men who, during the last six or seven months went out, even in the smallest way, to take advantage of the people who were dishonouring themselves and their country, and who, even in a small way, went out to do themselves a good turn and to enrich themselves were, in my opinion, as big criminals as the men who were committing what would be considered far graver offences.

Mr. JOHNSON: The Minister has put several questions to me. He has stated frankly that the offence of being in possession of poteen is not as grievous an offence as being in possession of a land mine. Nevertheless, he defends the minimum punishment for one offence being the maximum for the other. But there is no discrimination allowed in this Sub-section whether it is a first, a second or a third offence. There is no discrimination allowed in this Sub-section, no matter what the circumstances may be surrounding the commission of the offence. They are all guilty, and being guilty—

Mr. HOGAN: The Deputy is hardly quoting me accurately.

Mr. JOHNSON: I do not pretend to be quoting when I say that I am inferring what I read in the Bill. There is the definite proposition here that a person guilty of any of these offences no matter whether it is a first, a second or a third offence, or even a thirty-first offence,

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shall be sentenced to a definite term of imprisonment with hard labour for twelve months, and if he has not got £50 to spare he will have to spend an additional six months in gaol. I maintain that the circumstances connected with many of these offences may be of a kind which would warrant a very much smaller punishment than eighteen months' imprisonment with hard labour. Just to illustrate what I mean, I shall give a quotation from a speech delivered by the Attorney-General in the Belfast Parliament. He was defending a Bill much milder than this, and he said "There is no term of hard labour known to the law exceeding two years. Once you exceed two years you go into penal servitude. I have never suffered penal servitude or hard labour in this particular form, but I am told that two years' hard labour is much more severe than five years' penal servitude."

If that gentleman is to be believed, and I have no doubt he was quoting from those who were able to inform him with authority, the punishment that is to be inflicted, and regarding which there is to be no discrimination left to the Justice, on the possessor of illicit spirits or a soldier's cap, is to be greater, if this is true, than the punishment of a person found guilty on indictment who shall be sentenced to suffer penal servitude for a term of three years, and to pay a fine. I say that the whole conception of this Section is bad, because it does not allow any discrimination to the Justice as to the term of imprisonment and the severity of the sentences, even the maximum of which ranges over a variety of offences and puts them under what might be called a flat rate. The Minister has not helped to satisfy my mind about this, and I hope the Dáil will generally agree with the contention of Deputy FitzGibbon that the word 'shall' should be altered to read 'may.'

Mr. FITZGIBBON: In getting up a second time to speak I do not think anyone will say that I am doing so for the mere sake of obstruction. I make the Minister a present of the fact that for almost every offence set down in the Schedule I can conceive the penalty to be a very light one, but there are many of these offences for which I could al-

most equally conceive any penalty to be too great. Let it be granted that illicit drinking in any form is worthy of any punishment you please, but I am now going to take one case that has nothing to do with illicit drinking. It came within my own knowledge not many weeks ago. It was the case of four small boys who were brought up in the Dublin Police Courts for breaking some windows in a place of worship in York Street, almost opposite the College of Surgeons. That is an offence that would clearly come within Sub-section (8), which deals with unlawful injury and damage to property. I think it will be admitted that I regard any place of worship of any religious body, creed or sect, as a place which it is a sacrilege to touch. It was a grave crime with which these boys were charged, but, in my opinion, when these small boys were brought up in the Dublin Police Courts it would have been a far graver crime to have inflicted on them imprisonment with hard labour for twelve months, and then, in default of their parents being unable to pay £50, which I suppose they could get as easily as if the sum were £50,000, these boys would have to go back to gaol for another six months without any option being given to the magistrate to send them to a reformatory or to an industrial school. The magistrate would be bound to inflict the compulsory punishment that I have mentioned, and it is the gross iniquity of compulsory punishment of that kind that makes me press this amendment. I ask the Minister would he agree to say in this Section that a Court of Summary Jurisdiction "shall" for the offences numbered one to seven, and "may" for the offences eight to twelve, inflict these penalties? The offences numbered one to seven include all the graver crimes, and the offences numbered eight to twelve include pretty well all the crimes that are capable of modification. I do not move that amendment, but if the Minister would consider it between the time that his majority would have defeated this amendment and the time that we would come to the next stage of the Bill it would at least be some relief. The offences numbered one to seven are what would be called major crimes. These include the unlawful possession of lethal firearms, ammunition, bombs, land mines, wrongful possession of land,

robbery under arms, arson, and masquerading as members of the Police Force, etc. The offences eight to twelve deal with the lesser crimes, involving unlawful destruction or damage to property. I quite agree that under them there might be crimes which would be lightly treated even with eighteen months' imprisonment, but on the other hand, for the offence of merely injuring property which might only mean the breaking of a window in an empty house, it seems to me to go beyond all reason that this compulsory penalty should be inflicted, and to leave to the chance of the magistrate making a report, and to the chance of the Minister for Home Affairs having sufficient information before him, to say that this is a case in which the prerogative of mercy should be exercised. All that, I say, seems to me to be going beyond all reason.

Mr. O'HIGGINS: I will undertake to consider very carefully between now and the next stage of the Bill Deputy FitzGibbon's suggestion to make a discrimination between the last five and the first seven of these offences in the first part of the Schedule. The one that I would be most doubtful about is that dealing with illicit spirits. I think if we agree to treat that penalty as the maximum for that offence that we would also have to consider it advisable to insert a minimum penalty. As I say it is not so much the guilt of the individual here that has been the decisive factor as the absolute necessity of getting rid, once and for all, of these offences. I would not say there is one of them more than another menacing the life and prosperity of the country. If the country is to live, flourish and regain its prestige among the nations it is necessary that each one of the 12 offences set out there be stamped out.

CATHAL O'SHANNON: I am not enough of a lawyer to tell off-hand whether the startling words in No. 10 in Part 2 of the Schedule mean a certain thing or mean some other thing, but I have been thinking of somewhat similar cases to those which Deputy Fitz-

Gibbon mentioned when he spoke last. While it was a hypothetical case it was suggested to me by something the Minister said earlier and it seems to me a great hardship. I refer to the case, for instance, of young people, boys or girls requested by parents or someone else to procure from some house illicitly distilled spirits. There will be means and measures taken by traffickers in illicitly distilled spirits to evade the provisions of any Act and the thing may be christened with some other name than that given to it in the country. It is possible, I think, for messengers quite innocently to carry such spirits. I should like to know whether in the opinion of the Minister a case of that kind would be covered by the words "would if in possession or control of any such things."

Mr. O'HIGGINS: I think that guilty knowledge is assumed. There can be no conveyance without such guilty knowledge.

CATHAL O'SHANNON: Yes, that would go a considerable distance. It seems to me the case has been completely made out for a change. There is lack of proportion in the offences. I am sorry Deputy FitzGibbon is not here now. I intended to ask him, through you, Sir, to answer a question which arose in my mind when the Minister for Agriculture was speaking. It seemed to me he laid down a rather peculiar principle of jurisprudence. Deputy Johnson referred to it as the flat rate. It seems to me rather like a law of averages. It may be a common thing in law but it seems to me a peculiar and a remarkable thing. May I ask the Minister if we may take it as a rule that previous Statutes imposing penalties for the offences in this Bill will in effect be, if not repealed, in use during the period in which this Bill is in operation?

Mr. O'HIGGINS: During the lifetime of this Bill the provisions of the Bill will supersede the existing law.

Amendment put.

The Dáil divided: Tá, 15; Níl, 38.

Tá.

Tomás de Nógla.
Riobárd Ó Deaghaidh.
Tomás MacEoin.
Liam Ó Briain.
Tomás Ó Conaill.
Aodh Ó Cúlacháin.
Seamus Eabhróid.
Liam Ó Daimhín.

Seán Ó Laidhin.
Cathal Ó Seanáin.
Domhnall Ó Muirghoasa.
Domhnall Ó Ceallacháin.
Earnán Altán.
Gearóid Mac Giobúin
Liam Thrift.

Níl.

Liam T. Mac Cosgair.
Gearóid Ó Súilleabháin.
Micheál Ó hAonghusa.
Seamus Breathnach.
Pádraig Mag Ualghairg.
Peadar Mac a' Bháird.
Deasmhumhain Mac Gearailt.
Micheál de Duram.
Seán Mac Garaidh.
Risteárd Ó Maolchatha.
Pilib Mac Cosgair.
Micheál de Staines.
Domhnall Mac Cárthaigh.
Eoin Mac Néill.
Liam Mag Aonghusa.
Pádraig Ó hOgáin.
Pádraic Ó Máille.
Seosamh Ó Fáolacháin.
Seoirse Mac Niocaill.

Piarras Béaslai.
Fionán Ó Loingsigh.
Seamus Ó Cruadhlaoich.
Croistoir Ó Broin.
Risteárd Mac Liam.
Caoimhghin Ó hUigin.
Proinsias Bulfin.
Seamus Ó Dóláin.
Seán Mac Eoin.
Eamon Ó Dúgáin.
Peadar Ó hAodha.
Seamus Ó Murchadha.
Seosamh Mac Giolla Bhrighde.
Tomás Ó Domhnaill.
Earnán de Blaghd.
Uinseann de Faoite.
Seamus de Burca.
Micheál Ó Dubhghaill.
Seán Ó Maolruaidh.

Amendment declared lost.

Mr. DAY: I beg to move to Report Progress.

AN CEANN COMHAIRLE: A similar motion was made at 22 minutes past 12. I shall not take another motion yet.

Mr. MORRISSEY: I beg to move Amendment 36, in Sub-section (2), line 22, after the words "imprisonment with" to insert "or without." The section as it stands at present gives no discretion whatever to the Court. Hard labour is a very severe penalty, and the Court may not wish to impose a penalty on a prisoner who may be in a bad state of health, and there may be other extenuating circumstances. As the clause stands at present they have absolutely no discretion in any case. I think this is a very reasonable amendment, and one which the Minister ought to accept. There are cases such as I say where, owing to bad health or otherwise, it would be grave injustice to inflict hard labour.

Mr. O'HIGGINS: Hard labour, the Deputy says, is a very severe sentence. Now, as far as I could ever find out the only difference between a hard labour sentence and any other sentence is that there is a fortnight at the beginning of the hard labour sentence in which the prisoner does not get a mattress. Having

got over the fortnight the conditions are very much the same. I would accept the Deputy's amendment with regard to line 25, and in fact I was going to offer in connection with that an additional sentence of a fine or an alternative six months, to make that a permissive thing, so that the Sub-section would read: "that a person shall be sentenced to suffer imprisonment with hard labour for the term of 12 months and in addition may be sentenced to pay a fine of £50 and in default of payment of such fine should suffer imprisonment with or without hard labour a further term of 12 months." I could not accept the Deputy's amendment with regard to the substantial portion of the sentence. That would be the 12 months.

Mr. JOHNSON: In view of the Minister's assurance that there is no difference except for the first fortnight where the prisoner has not a mattress, will he accept the word "without" instead of "with" in line 22 inasmuch as it would make no practical difference?

Mr. O'HIGGINS: There is this difference really that the hard labour sentence is rather to indicate the turpitude of the particular offences. There is very little practical difference within the

prison in the conditions of a man sentenced to hard labour beyond the first fortnight, but the additional description of a sentence as a hard labour sentence indicates that a serious view was taken of the offence by the Court, and that it was the wish of the Court to brand it as a rather disgraceful type of crime.

Mr. JOHNSON: It seems to me that that would lead one to conclude that it was wise to put in the two possibilities "with or without." Then it will be clear that if hard labour is, in fact, imposed, it will be a clear expression of opinion by the Justice that he has taken a more serious view of the evidence, inasmuch as he had an option and decided to impose the greater penalty. Even though the greater penalty was only nominally greater, it was, at least, a sign of discrimination, whereas when a Justice is bound to impose hard labour, there is no expression of his discrimination as to the enormity of the offence. I suggest that, following the Minister's own contention, it would be wise to accept the amendment, inasmuch as that would allow that discrimination—though a nominal one—to be given expression to by the magistrate in imposing the sentence.

Mr. O'HIGGINS: I would be inclined to accept that amendment. I am satisfied that there is no material difference in the conditions of a prisoner sentenced to hard labour and those of a prisoner not so sentenced, and I have no objection to accepting the amendment. I might as well make the offer I mentioned just now with regard to making the fine portion of the sentence permissive rather than mandatory. The words would then be: "may, in addition, be sentenced to pay a fine." Some discretion can be exercised, then, with regard to the circumstances of the prisoners and so forth.

AN CEANN COMHAIRLE: The amended sub-section would then read, in part, "shall be sentenced to suffer imprisonment, with or without hard labour, for the term of 12 months."

Amendment put, and agreed to.

AN CEANN COMHAIRLE: There is an amendment in line 23 to insert after the word "and" the words "may in addition be sentenced," so that the line would read "labour for the term of

12 months and may, in addition, be sentenced to pay a fine of fifty."

Mr. O'HIGGINS: Yes. As we are at it, we might accept that "with or without" again in line 25.

AN CEANN COMHAIRLE: There is an amendment to line 25 to delete the word "with" and to substitute the word "without." Will that be withdrawn?

Mr. DAY: No, because the circumstances would be different.

AN CEANN COMHAIRLE: Then we will take this amendment in line 23 to begin with. Who is moving the amendment in line 23?

Mr. O'HIGGINS: You can take me as moving it.

Amendment to insert in line 23, after the word "and" the words "may in addition be sentenced," put, and agreed to.

Amendment 37.—In sub-section (2), line 25, after word "conviction" to insert the words "the Court may, if it is of opinion that such default is due to contumacy and not to lack of means on the part of the person, further sentence him."

Mr. LYONS: I propose Amendment 37, and I do not think the Minister will have any difficulty in accepting it.

Mr. O'HIGGINS: I wonder if the Deputy has observed that I agreed to make the fine portion of that Sub-section permissive, and the Sub-section would then read "and may in addition be sentenced to pay a fine of £50." That would leave it open to the magistrate to take into consideration the circumstances of a prisoner, which is practically what the Deputy asks in his amendment.

Mr. LYONS: After the explanation of the Minister that he proposes to embody the principle of this amendment in the section, I agree to accept it.

AN CEANN COMHAIRLE: Is Amendment 37 withdrawn?

Mr. LYONS: Yes.

Amendment withdrawn.

Amendment 38:—"In Sub-section (2), line 25, to delete the word 'with' and to substitute therefor the word 'without.'"

Mr. O'HIGGINS: I accept this amendment.

Amendment agreed to.

Amendment 39: "In Sub-section (3), line 29, to substitute the word 'may' for the word 'shall.'"

Mr. JOHNSON: I have authority from Deputy FitzGibbon to move this amendment on his behalf—

AN CEANN COMHAIRLE: I am not quite clear as to whether the option rejected in Amendment 35 does not operate here.

Mr. JOHNSON: The option that was rejected in the last sub-section had to do with persons convicted by Courts of Summary Jurisdiction. It was decided by the majority of the Dáil that any such person convicted of offences in Part 2 of the Schedule by a Court of Summary Jurisdiction shall be sentenced to a certain term of imprisonment. Sub-section 3 deals with persons found guilty on indictment, and does not deal with persons found guilty by Courts of Summary Jurisdiction. In any such case the object of the amendment is to leave an option as to the extent of the severity of the sentence. In this case the prisoner will be tried by a jury. It has been pointed out very often that where there is the certainty of a particular sentence juries are all apt to decline to find a verdict in accordance with the evidence, because they know beforehand what the sentence is to be, and that the effect of a mandatory provision of this kind will be to defeat the intentions of the Bill. On that ground alone the amendment ought to be accepted. I think it is common ground amongst criminal lawyers, and I think it is even more generally accepted in this country, that juries, where there is no possibility of a small sentence—where, for instance, in a trial for murder the jury does not want to see the capital penalty inflicted—make up their minds to find the prisoner not guilty. Now, that is likely to be the case in any of those other offences.

There are other reasons which may not appeal so surely to the Minister's mentality but which, I think, are really more potent to the average member of the Dáil. The arguments that have

been used in regard to the imposition of sentences without question under Sub-section No. 2 apply equally to this Sub-section No. 3. Every person found guilty on indictment of the various offences which we have been considering shall be sentenced to suffer penal servitude for a term of three years, and to pay a fine of not more than £100 nor less than £50, and if he is not able to pay the money he has to suffer imprisonment for another year, or (b) he may be sentenced to suffer imprisonment with hard labour for a term of not more than two years, nor less than one year. There is, as a matter of fact, more option given in this Sub-section than in the last, but I still consider that the advantages lie in every way with the amendment to substitute the word "may" for "shall" in line 2, Sub-section 3.

Mr. O'HIGGINS: I ask Deputies to remember that in this Sub-section you are dealing with a particular class of case, a case of a man indicted and tried by a jury, a case which had attendant circumstances so grave that the magistrate considered that it was not a fit case for summary trial and sent it forward for indictment. There may be circumstances in connection, for instance, with the first offence mentioned in the Second Part of the Schedule that would render it extremely grave and bring it outside the scope of mere summary trial. I would be inclined to offer, in connection with this Sub-section, much the same as was offered above—namely to make the fine portion of the sentence a permissive one and to strike out the minimum of the fine so that (a) would read somewhat as follows "Shall be sentenced either to suffer penal servitude for a term of three years?"—I cannot find the right words at the moment, but the effect of it would be, in addition to the sentence, "a fine of not more than £100," leaving out the following words, "and in default of payment of such fine within one month after sentence to suffer penal servitude for a further term not exceeding one year." Similar changes would occur in "b." Without going over again the arguments with regard to "may" and "shall," I do think that there is less ground for objecting to it in this case than in the case of summary jurisdiction. You will have here a man

tried before a jury and the offences set out in Part 2 of the Schedule were selected because it is considered that, in their own way they are all equally menacing to the future of the country.

Mr. JOHNSON: Does the Minister give no weight to the contention that the fact that the punishment is manda-

tory has an effect upon the jury's consideration of the case?

Mr. O'HIGGINS: I gave to that point a certain amount of consideration. But that point did not cause me to change my view that there ought to be for these offences a mandatory penalty that would be the minimum.

Amendment put.

The Dáil divided: Tá, 13; Níl, 42.

Tá.

Tomás de Nógla.
Riobárd Ó Deaghaidh.
Tomás MacEoin.
Liam Ó Briain.
Tomás Ó Conaill.
Aodh Ó Cúlacháin.
Seamus Eabhróid.

Liam Ó Daimhín.
Seán Ó Laidhín.
Cathal Ó Seanáin.
Domhnall Ó Muirghoas.
Domhnall Ó Ceallacháin.
Gearóid Mac Giobúin.

Níl.

Liam T. Mac Cosgair.
Gearóid Ó Súileabháin.
Seán Ó Maolruaidh.
Micheál Ó hAonghusa.
Seamus Breathnach.
Pádraig Mac Ualghairg.
Peadar Mac a' Bháird.
Densinhuin Mac Gearailt.
Micheál de Duram.
Seán Mac Gearailh.
Risteárd Ó Maolchatha.
Pilib Mac Cosgair.
Micheál de Staineas.
Domhnall Mac Cíorthaigh.
Earnán Altún.
Liam Thrift.
Eoin Mac Néill.
Liam Mac Aonghusa.
Pádraig Ó hOgáin.
Pádraic Ó Máillo.
Seosamh Ó Faoileacháin.

Seoirse Mac Niocaill.
Piaras Béaslaí.
Fionán Ó Loingsigh.
Seamus Ó Cruadhlaoich.
Croistoir Ó Broin.
Risteárd Mac Liam.
Caoimhghin Ó hUigín.
Proinsias Bulfin.
Seamus Ó Dóláin.
Aindriú Ó Láimhín.
Seán Mac Eoin.
Proinsias Mac Aonghusa.
Eamon Ó Dúgáin.
Peadar Ó hAodha.
Seamus Ó Murchadha.
Seosamh Mac Giolla Bhrighde.
Tomás Ó Domhnaill.
Earnán de Blaghd.
Uinseann de Faoite.
Seamus de Burca.
Micheál Ó Dubhghaill.

Amendment declared lost.

AN CEANN COMHAIRLE: Then Amendment No. 40, which is to insert in Sub-section (3) (a), line 34, after the the word " sentence," the words " may if the Court is satisfied that such default is due to contumacy and not to lack of means, be further sentenced," and Amendment 41 to insert in Sub-section (b), (3), after the word "with," the word " without," and Amendment 42 in Sub-section (3) (b), line 42 after the word " sentence " to insert the words " may if the Court is satisfied that such default is due to contumacy and not to lack of means be further sentenced," and Amendment 43 in Sub-section (3) (b), line 43, to delete the word " with " and to substitute therefor the word " without," are similar to what we have have had before.

Mr. JOHNSON: Yes; assuming that the Minister's words are embodied as promised.

AN CEANN COMHAIRLE: Yes; they are the same as we had before, and I was going to ask the Minister would he embody the words now or later on.

Mr. O'HIGGINS: What I propose in connection with this Section, if Deputies will observe, is that I am inclined to introduce amendments:

In Section 5, Sub-section (3) (a) to make the fine portion of the sentence permissive; to delete the words " not less than fifty pounds."

In line 35, to delete the word " of," and to insert " not exceeding," (b) to make the fine portion permissive.

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In lines 40 and 41, to delete the words "nor less than fifty pounds."

In line 43, to delete the word "with," and to substitute the word "without," and delete the word "of," and substitute the words "not exceeding."

Mr. JOHNSON: Would the Minister not accept an amendment which would add in paragraph (b) the words "with or without hard labour"?

Mr. O'HIGGINS: Do you mean in the first paragraph (b)?

Mr. JOHNSON: Yes.

Mr. O'HIGGINS: No, I could not accept that because these are particularly grave cases that will be sent on for indictment. They will be tried before a Judge and a jury, and if the jury finds a man guilty of the offences set out in the Schedule then a hard labour sentence is not excessive.

Mr. JOHNSON: But inasmuch as there is no material difference, except in the fact that it records the sense of discrimination, and the sense that a Judge has of the relative enormity of

the crime, and that though there is no real difference the fact that the Judge can say that this deserves hard labour expresses his views of the relative enormity of the offence—as it stands there is no opportunity of that—and inasmuch as it makes no practical difference in the amount of physical suffering only, and the sense of the Judge's opinion as to the extent of the offence, the Minister might, I suggest, accept that amendment.

Mr. O'HIGGINS: I am sorry, but I could not accept that amendment. A person found guilty on indictment of this offence ought to receive hard labour.

AN CEANN COMHAIRLE: Then the Minister's own amendments are agreed to.

Amendments agreed to.

Mr. DAY: I beg to move Amendment 41. In Sub-section (3) (b) after the word "with," to insert the words "or without."

Mr. O'HIGGINS: I could not accept that amendment.

Amendment put.

The Dáil divided: Tá, 12; Níl, 41.

Tá.

Tomás de Nógla.
Riobárd Ó Deaghaidh.
Tomás MacEoin.
Liam Ó Briain.
Tomás Ó Connill.
Aodh Ó Cúlacháin.

Séamus Eabhróid.
Liam Ó Daimhín.
Seán Ó Laidhin.
Cathal Ó Seanáin.
Domhnall Ó Muirgheasa.
Domhnall Ó Ceallacháin.

Níl.

Liam T. Mac Cosgair.
Gearóid Ó Súilleabháin.
Micheál Ó hAonghusa.
Séamus Breathnach.
Pádraig Mag Ualghairg.
Peadar Mac a' Bháird.
Deasmhumhain Mac Gearailt.
Micheál de Duram.
Seán Mac Garaidh.
Risteárd Ó Maolchatha.
Pilib Mac Cosgair.
Micheál de Staines.
Domhnall Mac Cárthaigh.
Earnán Altún.
Gearóid Mac Giobúin.
Liam Thrift.
Eoin Mac Néill.
Liam Mag Aonghusa.
Pádraig Ó hOgáin.
Pádraic Ó Máille.
Seosamh Ó Faioleacháin.

Seoirse Mac Niocaill.
Piaras Béaslai.
Fionán Ó Loingsigh.
Séamus Ó Cruadhlaoidh.
Croistoir Ó Broin.
Risteárd Mac Liam.
Caoimhghin Ó hUigín.
Proinsias Bulfin.
Séamus Ó Dóláin.
Andriú Ó Láimhín.
Seán Mac Eoin.
Eamon Ó Dúgáin.
Peadar Ó hAodha.
Séamus Ó Murchadha.
Seosamh Mac Giolla Bhrighde.
Tomás Ó Domhnaill.
Earnán de Blaghd.
Uinseann de Faoite.
Séamus de Burca.
Micheál Ó Dubhghaill.

Amendment declared lost.

Mr. O'BRIEN: The next amendment which stands in my name is, I think, consequential on Amendment 40, and I desire to withdraw it.

Mr. O'CONNELL: I move: "In Sub-section (3) (b), line 43, to delete the word 'with' and to substitute therefor the word 'without.'" I think the Minister has said that he was accepting this amendment.

Mr. O'HIGGINS: I accept that.

Amendment agreed.

AN CEANN COMHAIRLE: I want to point out that the next amendment, No. 44, aims at deleting the whole of Sub-section (4). That is to say to delete the provisions which deal with whipping. Subsequent amendments deal with the endeavours to amend the sub-section should it not be deleted. In dealing with the amendments subsequent to Amendment 44 it will not be possible to enter into an argument for deleting the sub-section, and when we come to the question "that the section as amended stand part of the Bill" it will not be possible to enter into arguments for deleting Sub-section (4).

Mr. JOHNSON: I would like to ask whether you would take a motion to report progress with a view to the exhibition to the Dáil of the various instruments that are possible to be used in this operation?

AN CEANN COMHAIRLE: I will not.

Mr. JOHNSON: I want to ask the Dáil then to agree to this amendment which I propose, namely, "To delete Sub-section (4)." I asked the Dáil to pass this amendment upon the view that the punishment of whipping or flogging is degrading and dehumanising to the flogged and the flogger and to the people responsible for the operation of the flogging. It may interest the Dáil to know that this kind of punishment is confined in European countries to England and Turkey. It was in Russia, but I am not sure if it is now, and in the North African countries to Morocco. All other civilised countries in Europe have long since given up this operation of flogging. I am not going to ask for any leniency to the prisoners. I am not going to base my arguments against the institution of this method of punishment

out of sympathy with the prisoners. I believe that even they are human and ought to be treated as human, but I am afraid that the history of the last few years has gone far to harden men's hearts and generally to think that it is quite an ennobling aspiration to treat violence with violence and meet torture with torture. I do base the contention that it is unwise to enter into this method of punishment because it is degrading to the persons engaged in the flogging, and it is a reversal of the process of civilisation and christianisation. We have been told on very good authority that it does not matter so much the distance that people progress so long as the direction of their progress is right. I think in this case it is distinctly retrogressive, and the institution of flogging, the reimposition of flogging, in Ireland will mean distinct retrogression, and is not called for by any of the facts that have been adduced in support of the provisions of this Bill. We have been told, of course, that certain classes of offences have, as a matter of fact, been reduced by the imposition of the lash. That is not proved. It is, in fact, denied on good authority—on the authority of the Judges of the British Courts. The classical case that has so often been mentioned—it was mentioned here on the Second Reading—of the decline in garrotting as a consequence of the lash is quite fallacious, although the *Encyclopædia Britannica* quotes it, but other encyclopædias point out more correctly that the decline had taken place six months before the Act was passed. The cases made for this system of punishment, is that it is confined to two classes of offences, and it is thought it would be a special deterrent for these two classes of offences. No reason was given why culprits of this kind will be deterred while other culprits, offenders in other directions, will not be deterred by flogging. It is rather strange, while one class of offence is chosen here in this Bill as a fit subject for the reintroduction of this same fiendish system of punishment, in other places and other times quite other classes of offences are quoted as justifying the reintroduction of flogging. There are two judges whose words I would like to quote—representing two different schools of thought, one might say—Mr. Justice Hawkins and Mr. Justice Matthews of the British Courts. Sir Henry Hawkins wrote in his memoirs,

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“soon after I became a judge I abstained from applying it (the lash) and in all cases where my attention was directed to the special brutality of any particular case I felt that it was preferable to inflicting whipping to add a longer term of imprisonment.”

Mr. GEORGE NICHOLLS at this stage took the Chair.

Mr. JOHNSON: Mr. Justice Matthews said, in criticising the proposals of the Grand Jury at the Birmingham Assizes in 1890, to the effect that there should be an extension of flogging for assaults on women and children, “it would be inhuman to add the lash to the sentence of penal servitude and such savage sentences would tend to defeat their object by creating pity for the criminal.” I have no doubt that many judges can be quoted on the other side who are in conflict upon this subject, as they are upon many subjects. Some judges are very fond of heavy sentences for certain classes of crime, while others are favourable to light sentences, and they vary exceedingly in respect of the merits or demerits of the lash as a form of punishment. The contention is, however, that flogging is a deterrent, that it will deter in a special manner Irishmen who are guilty, at this stage in history, of the offences of arson, or Irishmen who are guilty, at this stage of history, of robbery under arms.

I want to ask whether it is intended to impose a flogging sentence out of vengeance upon a person guilty of either of these crimes? Is it intended that because the individual has offended violently and grievously against the State, the State must use its strong arm to violently afflict that person's flesh with a lash? Is it vengeance that it is sought to expend upon the prisoner? If that is the case the Dáil will make, then I have no reply to it except to regret that Deputies are so lost to all that has been taught them from their childhood, as to fall back upon the primal instincts. “An eye for an eye and a tooth for a tooth,” has a long history as a method of administering justice, but it is not consistent with the Christian Doctrine that Deputies generally have been taught and believe. So I will assume that this punishment is not intended to be imposed as an act of vengeance.

It is presumably claimed that the fear of the lash will deter those who may be tempted to commit those crimes. I think that that is the fairest statement of the case in favour of the imposition of the lash. It is hoped that it will not be necessary to impose it. It is, perhaps, believed that it will not be necessary to inflict whipping penalties, but that the very fear that such a penalty may be inflicted will deter the kind of criminal or potential criminal who might be tempted to commit any of these offences. If that is a fair statement, I want to ask whether it is a right thing to put a person who is not sufficiently brutalised to have no regard for the probable whipping, to put that person, who has at least some remains of a sensitive nature, some remains of a moral sense, to undergo the very degrading punishment that the lash involves? If it is argued that the offender is already brutalised, and that an appeal to that person's social sense is useless, that there is only one way to deter him or to deter others like him, and that is to punish him so viciously, so severely, by physical pain, that the fear will be too great, that he is, in fact, a brute, that he is already dehumanised, and that therefore the only way to treat him is as a brute, as something that is not human—if that be the argument, even then I contend it is better to impose a long period of imprisonment. It is a much more effective safeguard to the public than to allow that brutalised person to be free after a period of imprisonment, and to allow his brutalised nature to have full fling upon the body politic. If, on the other hand, this kind of person is one whose moral sense has not been utterly destroyed, that there is something of humanity left, then I say that the process of whipping is going to lower that man to a level much nearer the brute and to take from him much, if not all, of the human feeling that we are crediting him with.

I do not know whether the Minister has—as I think was his duty before suggesting the imposition of this penalty—made himself acquainted with the procedure connected with whipping under British law in the past. The procedure under this Bill will be that the instrument is to be decided by the Court, and I presume not merely the instrument but the manner of the use of that instrument. No doubt precedent will be

quoted, and some reference will be made to the practices in the past, and perhaps the jails which have used the lash for offences against warders—disciplinary offences—may still have within their walls the whips and triangles and the like. I take it that the Minister will have made himself thoroughly acquainted with the procedure. I am going to ask the Dáil to listen to a statement that was made in an earlier discussion upon this question in the British House of Commons. It will be remembered that the Irish representatives of that day did a great deal toward the abolition of the use of the lash in the British Navy and the British Army. It is related in a history of the Irish Parliamentary Party that one terrible day in the House Alexander McDonald, who, by the way, was the first of the Labour members, told the story of his father's cruel shame. He had been a sailor on a ship of war. Some trifling quarrel with a superior had brought him to the court-martial, and the sentence of 50 lashes of the cat-o'-nine-tails at the hands of the burly boatswain's mates was imposed. Cut to the bone, to the ribs, McDonald's father bore the scars to his dying day.

"I worked as a lad with my father many a day in the pits," McDonald told the House, "and well I remember that no matter what the heat and sweat of work my father always kept wearing a bit of a shirt about his chest and sides. He would not let a fellow workman see the scars of the wounds. I had my personal experience too of those soldier-tragedies. My soldier-nurse, my father's batman, had been a few months before the smartest soldier in the Fifth. A glass of drink, a word, a blow, a mad struggle with the picket. The court was merciful. The ruined man got 'only' 25 lashes! Poor brave McMullan, from the County Down! Shamed to the very death, he drooped and shrank from that awful day. His captain, who liked and respected him, did all he could to hearten and console him. In vain. Before three years were passed from the hour they loosed him from the black triangle, the broken soldier was in his grave."

I do not really want to stress the physical point, but I do want to appeal to the Dáil to realise that there is a moral degradation, a brutalising of the

man who has been lashed by another man, and that that brutalising seriously and rapidly tends to make that criminal a much less desirable citizen when he returns to civil life than he was before he went in. You have put him at enmity with the State and with Society, because you have degraded him. You have put him in the position of a slave, of a man whose physical being has been scarified and scored by another and who has been actually put into physical torment at the hands of the State.

I say that the inevitable effect—and it is easily proveable in history—of that kind of torture is to put that man at enmity with the State and with society when he comes out, as you contemplate he will do, because his mind has been brutalised and he has lost real contact with the higher things, by virtue of that real degradation of spirit, and you have actually put him into a wrong relationship if your intention was preservative and beneficent and if you are not, as I hope you are not, out for vengeance. The history of civilisation will surely remind Deputies that the countries and the times in which crime was most prevalent were the countries and the times when flogging was most general. Flogging was general for the minor offences both of men and women, and it was only with the development of a real sense of humanity that crime diminished. When flogging ceased there was a rapid diminution of crime. The history of the British Navy and the British Army in regard to flogging gives ample evidence of that. Everybody who has had experience admits that since the abolition of flogging the general sense of discipline and of good conduct of our crews and of soldiers has been improved to an extraordinary degree, and that since the flogging process was wisely put aside the effects have been immeasurable upon those who were in the habit of committing offences. I would ask the Dáil, and I would appeal to the Minister as seriously and as earnestly as it is possible to do, to withdraw these penalties from this Bill and not let it be said that we are instituting or reviving the system of flogging. I would remind the Dáil that it has been noted with satisfaction that in the past flogging has been very, very lightly indulged in in Ireland and in Scotland, if at all. Now we are asked to institute it in this Bill and to impose it upon

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certain criminals—to enter, as I think, into a competition with criminality, a competition between the State and the criminal as to who is the most capable of inflicting violence. We have said, and the Minister has said, that recent years have dulled the sense of morality of many people in the country, and that what was looked upon as a terrible thing five years ago is lightly regarded now.

Flogging is merely an institution. The institution of flogging will merely be one other step in the contest of brutality. The criminal is doing an evil thing, a violent thing, and a very disastrous thing to the common well-being, and the State is asked to respond to that by inflicting physical pain with a lash. We are not asked to adopt other methods which are known to history of inflicting pain, but we are asked to strip a man and to use upon that man's body the whipcord, a knotted cord or, perhaps, some other instrument of torture in the form of a lash, and to prescribe that as a cure for the offence of arson. I think it will not be a cure. The utmost that is to be hoped is, if this Bill becomes law with this flogging clause, that there will be no offences of arson, and it may be claimed to the credit of the Bill, if that is the desirable story that can be told at the end of six months. But we will have had placed upon the Statute Book this punishment of flogging, and that in itself will be something to be sorry for in the future. I hope it will be possible for the Minister to say that he is willing to wait at least until he sees that there is an actual increase or a great increase in these two offences and that there is no way of putting them down without corporal punishment. If he comes to the conclusion, after trying other methods, that there is no way of putting them down without threatening corporal punishment, then let him come again to the Dáil and ask for permission to add this penalty to the other penalties; but I would earnestly ask that, until other methods have been tried, and until an extension in the number and ferocity of these offences is revived and continued, that we should not be asked to accept Section 5 in this Bill.

Mr. O'HIGGINS: Deputy Johnson has put calmly and rationally one aspect

of this question. I wish I could feel that I could put nearly as well the contrary case. This Bill has been nicknamed. The official title has been ignored and it has become known as the Flogging Bill. I think that people would have been wiser to have adhered to the original title, because it is certainly in that spirit of protecting the clean decent people of this country that the Bill was conceived, and it was above and beyond all for the public safety that it was framed. Within the last year Ministers, Deputies, Senators and representative people have had to be guarded, and to be specially guarded. None of them, I take it, liked that, but it was considered necessary. I ask Deputies to remember that the ordinary man and woman in this country have no guard, if the law and the sanctions of the law are not a sufficient protection for them. Time was in this country when a man could leave his door on the latch during the day or the night. That day has passed, and within recent months, within the last eight or ten months, all sense of appreciation of the sanctity of the home, all restraints of human respect, restraints of respect for the moral law, restraints of respect for the law of man, have gone whistling down the wind, because the worst instincts of man have been summoned up, deliberately summoned up in this country, because that criminality which is latent in man everywhere, which is part of his baser nature, has been called up here. The poet Virgil makes one of his characters say "If Heaven denies me, then I'll call on hell." That seems to be very much the stand taken up a year ago by certain people here who professed to be standing for the higher political ideals, who professed to be themselves high-souled patriotic men with no thought of self, ready to sacrifice themselves and all they hold dear on the altar of their country's good. But they said "If heaven fails me I will call on hell; if I fail to get a response from the people of this country to the intrinsic nobility of my cause, then I will turn deliberately and call forth in this country the worst instincts of man; I will play deliberately to their basest passions, and I will tell them the country is theirs for the taking; I will ask them to go out with a gun to rob their neighbours; I will offer them land for nothing; I will

tell them they will never have to pay any debts, rent, rates or taxes, and that the millennium is coming for the man with the gun." It was a pleasant call, and it tickled many ears, and met with a surprisingly general response. Men who had never felt themselves called upon to face the British administration, who had never felt themselves called upon to make any particular sacrifice to achieve the object of getting the British out of Ireland, when the British were got out of Ireland turned on the first native administration here with a ferocity and wantonness that was surprising, and the country has had its year of hell in consequence, the hell of what, for want of a better name, we call civil war. It was not civil war, because there was only the irreducible minimum of fighting. For the most part, when the troops came within range, it was easy talk to the men who professed to die rather than go into the British Empire and all that kind of talk. They conducted a very wanton campaign against the unarmed citizens of the country, and against the economic life of the country. They wrecked and burned and robbed from end to end of Ireland in the name of Irish freedom, and in the name of a political ideal. Irish freedom! Two things stood out, and these were these two offences that have been singled out in this Bill, the crime of arson and the crime of robbery, the robbery of the unarmed man by the man with the gun. The cry was "What is yours is mine, because I have a gun and you have not; your savings, the fruits of your thrift or enterprise, must be handed over to me by virtue of my gun."

Arson is an offence at which the human mind stands appalled, and in men's minds, back to the earliest days, the home and all it stood for, the household goods, have been cherished things, things ranking amongst the most sacred in life. I feel that if the seeds that have been sown in the last year are to perish and die that we must take steps to strip the thin little rag of idealism from these two crimes, the thin little vestige or scrap of that that they may have, because people professing idealism urged their followers to resort to such methods. Deputy Johnson says that this penalty is degrading. It may be necessary to show how degrading these two offences are to attach this penalty, this humiliating

penalty. It may be necessary to mark our horror of these two offences and to mark the strength of our convictions that either they or the nation must perish, to attach very signal and very severe penalties to them. I think it is so necessary. I think that the ordinary penalty of imprisonment has its edge blunted for the people who resort to these two crimes, and if I believed that by any other means than the means proposed in this Bill these offences could be checked and stamped out I would not have inserted this penalty of flogging. But I do not believe that you will adequately grapple with and stamp out these offences by imprisonment. This has been called a reversal of progress. Deputy Johnson used another word which I marked. He called it a reversal of Christianisation.

Now, in all reverence let me say that the Lord Himself in righteous anger scourged with a whip of cords the people whom He found desecrating the holy places. The people who have been violating Irish homes in the name of Irish liberty, who have been robbing Irish citizens by virtue of their guns, will not stand checked by the normal sanctions of the law and they will not stand in fear of imprisonment. I say that believing it to be absolutely true, and I say that if any member of the Executive Council believed that imprisonment would be a sufficient deterrent we would not resort to any other method. The situation in the country is known to every Deputy and scarcely needs to be stressed. You have this combination: that you have summoned up here the worst instincts of man, and you have together with that the lethal weapons secreted from one end of Ireland to the other. These two factors will fuse and will produce both of these crimes. The criminal instinct will find the lethal weapon, and people will try to live by their guns in the future as they have lived for the last year. They have got out of the way of work, and out of the wholesome mentality that work develops and preserves in man, and have got into the way of living by crime. Men go on from year to year, very often living humdrum, routine and moderately respectable kind of lives. Some day the bond snaps. There are many bonds, moral bonds, and bonds that could not exactly be described as belonging to the supernatural sphere, bonds of human respect

[Mr. O'Higgins.]

and also the bond of ordinary decency, the kind of decency that a pagan might have. These bonds, I say, go and the man stands a predatory savage prepared to prey on his fellow-man for his living.

That is the kind of problem we have to face here in this *insula sanctorum et doctorum*. I do not say for a moment that such problems would not arise to the same extent, or to a greater extent, in other countries. They could. I never believed in the theory of the double dose of original sin for Irishmen. I think that probably in other countries similarly situated, much the same might have happened as has happened here. I would be even prepared to concede that much worse things might have happened than have happened here. But we are dealing with a situation that has developed here, and I tell Deputies, solemnly speaking with a more intimate knowledge than most Deputies could have, speaking with a knowledge of police reports from the various counties and statistics in my mind which I do not propose to state to the Dáil, for the obvious reason that they would be distorted and used by political enemies to the discredit of the country, but speaking with these things well in my mind, I say that if these two offences are to be stamped out sufficiently quickly you must have resort to very special and very stringent methods, and the credit of the country demands that they be stamped out in the shortest possible space of time. When I say the credit of the country, I say it in a two-fold sense. The financial credit of the country demands that these crimes be ended at once, and the good name and prestige of the country demand that they be ended. I can almost hear Deputy Johnson making a mental comment that the country's prestige will not be improved by resort to the penalties mentioned here in Sub-section (4), and that whatever we gained by checking or diminishing those crimes, we will lose by the fact that we resorted to those penalties. I know that that is his outlook. I have appreciated it from the start in connection with this Bill—that he thinks and he feels that we are wrong, and he believes that he is right. I do not think, however, that it will be held to the discredit of this Government either here or elsewhere that it placed the protection of the decencies of life, the preservation

of the decencies of life, and the protection of the plain decent citizens of the country beyond and above the sensibilities of the robber and the man who resorted to arson. It is the duty of a Government to govern. It is the duty of a Government to protect, to give the utmost possible protection to, citizens. The citizens of this country have a right not to be robbed, not to have their houses and property burned, and they have a right to demand from their Executive that ample measures be taken to check those offences. They must not be left at the mercy of the criminal who has lost all sense of right and wrong because he was taught crime as a means of forwarding a political ideal, because crime was introduced to him wrapt round with the trappings of idealism. The responsibility for that lies on the people who resorted to it, but we must deal with the consequences. We must make it very clear to everyone here that the man who robs and the man who burns is not a hero, but a most cowardly coward, that he is not an idealist yielding to an amiable eccentricity, but that he is the lowest form of criminal. On the Second Reading of this Bill a metaphor was used which I did not like. I did not think that it was a good metaphor, but it was said that every sore back in the country would be a monument of our inability to govern. If the sore backs are to be monuments let us inquire closely what they will be monuments of. I differ from the Deputy. I think they will be thought to be monuments to the fact that we appreciate the necessity of ending these two crimes in the shortest possible space of time, monuments to our determination to end them even at the cost of the finer feelings of the robber and the burner, even, mayhap, at the sacrifice of some finer feelings of our own. You see we have had to outrage in the execution of our responsibility certain of our feelings. Deputies know that.

They know we have had to arrest and imprison and even execute people who were our friends and who were our comrades, and Deputies do know, even though at times they talk as if they did not, that that was not a pleasant task for us. Deputies do know that that was undertaken and carried through by us only because we were supported by the feeling that these things were necessary in the proper discharge of our steward-

ship to the people of Ireland. Deputies get worked up occasionally and they get up and talk as if they believed that members of the Executive Council, or members of the Army Council were blood-thirsty ruffians or flinty-hearted persons devoid of all human feelings. I know that they do not believe that. I know that in calmer moments it has been necessary for us, or we, at least, have considered it necessary to sink and control the natural promptings of our hearts because we consider that those conflict with the due discharge of our responsibilities. It is so in this Bill and so in fact throughout the Bill, and so in truth with regard to this Section. No one likes to have to resort to the penalty of flogging, and, going a step further, no one likes to have it known elsewhere that it was necessary to have to resort to that penalty in this country in order to check certain crimes. We would much sooner it was not necessary; but we do consider it necessary and we do consider it is our duty to tell the Dáil that we believe that the combination of hidden arms and a rather general tendency to crime and to give free play to the lowest instincts will create here these two offences on a scale which the normal sanction of the law would not be sufficient to check. We come here and say that there has been a retrogression from the standards to which civilisation and society had attained and to meet that retrogression you must take a step back also in your penalty and go back to those penalties of corporal punishment which every man would be glad to have laid aside if certain circumstances permitted that they could be laid aside. But it is surely my duty, and it is surely our duty, if we considered that those penalties, and those penalties only, will check these offences, to come here and say that in an open, responsible, straight-forward spirit. Deputies must choose deliberately. I say if you rely on the sanction of mere imprisonment to deal with these two offences you will not stamp them out as quickly as they ought to be if this country is to live and flourish and go forward in peace, progress and reconstruction. Deputies must choose whether they prefer to respect the finer feelings of the criminal and to have robbery and arson rife in this country from end to end, or whether they will figuratively grit their teeth and

go through with this thing for six months in the hope that at the end of six months they will have shown adequately that neither of these two crimes is heroic, that they are in fact ignominious offences demanding an ignominious penalty.

CATHAL O'SHANNON: The facts as to the late prevalence of arson and robbery under arms, and the likelihood that there will be, perhaps, on an extensive enough scale, a repetition of these offences are all quite admitted, but I respectfully suggest that after he had retold for us the story of all that, the Minister very largely begged the question before us. He gives it as his considered opinion, and the considered opinion of the Executive Council, that the employment of this particular form of punishment is going to achieve the end which he wants to achieve, namely, the suppression of these two offences and the putting of criminals of this kind into a class apart from all other criminals. Now, he has brought no evidence and nothing to show that that opinion of his and of the Executive Council is well founded. Such opinion, at least, the majority of opinion that has been expressed in other countries as to the efficacy of flogging or whipping, or indeed of any form of torture, has been dead against torture because it is torture, and it is just because it is torture that it is objectionable. It is not out of any great consideration for the finer feelings of criminals that one opposes a measure like this. It is out of consideration for the finer feelings of human beings of the whole nation and of civilised beings in general. The Minister made a false analogy when he referred, as a kind of parallel, to the driving of the money-changers out of the Temple, but will the Minister say that that particular kind of whipping is the whipping that is going to be inflicted under this Bill? No, it is not. The whipping provisions under this Bill are taken from the ordinary British whipping provisions which are torture. Now, the light use of ordinary whips on animals is not, as far as I know, an offence in law, but the searing of the flesh of animals and the breaking of the skins of animals by excessive beating, is a crime known to the law, and is a punishable offence under the law. There is no analogy at all in what the Minister has said. It is a good

[Cathal O'Shannon.]

many years since one of the most distinguished of Irishmen, a man who would have had no hesitation in punishing in the most drastic way, consonant with humanity and morality, Parnell, said that "flogging is an evil and has been used at all times by tyrants for purposes of their own, and so long as it remains it will continue to be used in an unlawful and cruel manner." Again he denied that even people guilty of the crime of garroting ought to be flogged, for it was a disgusting and inhuman punishment. I agree. There is one, and only one, argument that any Government can produce to justify flogging. It cannot produce the argument that it has been effective, for it has not been effective. At different places and at different times it has been adopted to deal with particular crimes, but the advocates of its use for that class of criminals have always said that it is not necessary to use it for other crimes, but that it is necessary for this particular one or two crimes. It is the same here. The only argument that can be used in justification is that it is one of the instruments of torture necessary to impress the community with the power of the State. I submit that in this case, as in most cases, the use of torture shows and reveals in a Government the very essence of despotism. It is no argument in reply to say that the majority either of this Dáil or the majority of this people approve of a particular measure. That makes it no less despotism, because no Legislature and no Government is invested, or can be invested, with such power and such authority that every act it performs or gives sanction to is therefore a rightful act. Now, the Minister speaks of the decencies of life. We are all agreed with him on that, but we think that the adoption of this measure is a violation of the decencies of life. He thinks—I believe he is mistaken—that these scourged backs will be a monument to the ability and sense of duty of the Government. Well, if it is mere monuments like that that he wants he is welcome to them, but if it is monuments he wants he can have even more effective monuments to show to the people. He might, for instance, brand people convicted of arson with the letter A on their foreheads. That kind of thing has been done on exactly the

same argument as the Minister brings forward here. He could brand the robber with the letter R on his forehead, so that everybody might see it.

ACTING CHAIRMAN (Mr. George Nicholls): The Deputy has exceeded the ten minutes allowed.

CATHAL O'SHANNON: I regret having done so.

Mr. LYONS: In support of the amendment to delete Sub-section (4) I wish to say that I think this amendment should get the sympathy of every member of the Dáil. When we take into account the class of prisoners who will be entitled according to this Bill to receive this punishment I am sure that neither Deputy Johnson nor any Deputy on these benches will have any sympathy. We have no sympathy, for instance, with the man who goes out for the sole purpose of robbing his neighbour by the aid of a revolver or the man who may go out with the full intention in his mind to set fire to his neighbour's dwelling or the man who may lie in wait watching his opportunity to take the life of his fellow-citizen. A certain class of prisoner, however, under this Bill when it becomes law can be sentenced by the Judge to the punishment mentioned. Any prisoner for the slightest offence which he may commit against this Act will be or can be sentenced by the Judge to flogging. Now I do not think that at our time of life in this twentieth century we are going to go back to the year '33, when flogging was first introduced. Surely we are advancing, but if we happen to be more or less of a "Paddy-go-easy" style of people whose desires are to follow in the footsteps of our great-grand or trebly-grand ancestors, and if the promoter of this Bill belongs to that class, I am sure the Saorstát is not going to advance. I think in fact we are taking three steps backwards. Now this Section specifies that in the case of a boy under 16 years of age the Judge can order a whipping to the extent of 25 strokes, but in the case of a person over 16 years of age the number of strokes specified shall be 50. I am sure that the Minister really means that the Judge shall specify 50 strokes.

ACTING CHAIRMAN: The Bill says (b) in the case of any other person the

number of strokes at such whipping shall not exceed 50.

Mr. LYONS: I was taking it for granted that the Justices appointed under the Minister for Home Affairs would inflict the heaviest penalty.

ACTING CHAIRMAN: The Deputy is not entitled to make such an assumption as that.

Mr. LYONS: It lies with the Judge to specify the number of strokes. In the case of persons whose age does not exceed 16 the number of strokes does not exceed twenty-five, and in the case of other persons the number of strokes specified is between twenty-five and fifty. It is for the Judge to specify the number of strokes between twenty-five and fifty. We realise to the fullest extent the punishment that is to be inflicted under this Bill and the powers which you give to the Judge. To my mind flogging is the most horrible act that can be introduced for any civilised people. If you take a man out to flog him you have to strip him. You are not going to flog him with a top coat on, especially if it is made of a shoddy material that is being worn by some portions of the Army at the present time. Having stripped a man you tie him to a post, then you get one or two strong men whom may be chosen by the Judge to use an instrument specified by the Judge. It does not say whether it is to be a cat-o'-nine-tails or a birch, and you cut the flesh off the man's bones, he is, of course, helpless, being tied to a stake. I notice that the Minister for Defence shakes his head, which leads me to think that he believes the flesh shall not be cut off a man's bones, but how can you flog a man and give him fifty strokes without cutting him? I can assure this Dáil that I want to see criminals who stoop so low as to rob for their own personal ends, or who burn the homes of their neighbours, punished. But there are other means of punishment than flogging. Flogging is too old a punishment to be adopted by a nation in its infancy as we are.

ACTING CHAIRMAN: The Deputy has now exceeded his ten minutes.

MINISTER for EDUCATION (Professor Eoin MacNeill): It is, of course, pleasant for certain Deputies here to assume the role of defenders and cham-

pions of human feelings and by their criticism directed against this Bill, especially against this particular provision, to convey the idea that members of the Government are lost to a proper sense of humanity and that they are not able to appreciate, as some Deputies can appreciate, all that has been said with regard to this aspect. I think there are two aspects put before us of this punishment of flogging. One aspect is that the punishment itself is degrading to those who receive it, and the other is that it is revolting to the minds of other persons. Now I do not know whether it is necessary for the members of the Government to proclaim that they are made of much the same clay as other people. They have probably quite as much of the average tenderness of feeling about matters of this kind as other people. It is really not a question of susceptibilities or sensibilities. If people allow themselves to be ruled by appeals of this kind it is not only in the treatment of prisoners and of the baser sort of criminals but in the treatment of innocent persons that they would wish to interfere and to impose limits. The surgeon daily in his ordinary operations has to do things which would be revolting to many hundreds and thousands of people if they were spectators of these things. I remember it was put forward at a previous stage that if this punishment were a justifiable one to be inflicted in prisons for these crimes why then should it not be performed in public? That was the test—the ordinary operations of the surgeon. We were asked to consent to have this flogging in public. If the surgeon were asked to perform his operations in public they would shock the natural feeling, not only of some persons but a very large number of persons, and very probably the majority of persons. The case that we have to deal with is far more grave than the relief of the ailments of individuals.

AN LEAS-CHEANN COMHAIRLE at this stage took the Chair.

Professor MacNEILL: It is a disease, but a disease of the body politic, a disease of the community, and, just as we are supposed to be unfeeling and inhuman in these matters, so it has been suggested that in bringing forward this Bill we have been acting at one time in

[Professor MacNeill.] opposition to the spirit of the Constitution which we have adopted here and at another time in a manner dangerous to the liberty of private citizens. The fact is, and I think the vast majority of the public at all events already recognise it, that the object of this Bill and the object of the severities proposed under it is to make the Constitution possible, to prevent it from being rendered impossible and to bring it into existence. At present it exists as an embryo, and the operation of bringing an embryo into existence and into full life is very often attended with pain and very often attended with circumstances which make people probably regard it as painful to their finer nature. It is the same with regard to the liberty of the individual. It is to make liberty possible for the individual in this country that this measure is proposed, because it is not only for the particular individuals who are threatened by arson or threatened by robbery, but because if these threats are in any measure successful they strike at the liberty of every person in the country without exception. The measures proposed here in this Bill are designed to give effect to the Constitution and to give it reality, to allow the Constitution to get life and breath and to give liberty to every individual. We have had numerous and oft-repeated statements in regard to this particular punishment of flogging. We have been challenged to point out whether we have reasonable ground for supposing that this punishment will act as a deterrent. We have reasonable ground. One of the Deputies who spoke instanced the action of Parnell. Parnell, we know, abolished flogging as a disciplinary measure in the British Army. As we know, Parnell was instrumental in procuring its abolition, I do not remember—I presume the Deputy has taken the trouble to verify what he has said—that Parnell objected also to flogging as a punishment for the crime of garrotting, but I do remember that that punishment was effective in stamping out the crime of garrotting; that, I think, is a fact well known to a very large number of the public.

CATHAL O'SHANNON: It is a fiction.

Professor MacNEILL: It may be denied, I do not know how much the denial amounts to. It was also put

forward that the object of this penalty was to create terror in order to give the notion of the power of the State.

AN LEAS-CHEANN COMHAIRLE:

I must remind the Minister for Education that his ten minutes has expired.

CATHAL O'SHANNON: I suppose it is in order for me to continue my speech, and that it will be in order for the Minister who has just sat down to resume his speech after I finish. The Minister for Education, I think, is in error like a good many other people, in pleading that flogging had the effect of putting down the prevalence or checking the prevalence of garrotting, particularly in London. It is a fiction that has existed for a good many years and even well recognised authorities have given some colour to it. But it does not happen so far as my information goes—my information may be at fault—to correspond with the fact, because the garrotting outbreak in England was effectively suppressed before certain Acts, particularly the Act of 1863, reintroduced the punishment of flogging unless I am very much mistaken, and one of the authorities testifying to the suppression of garrotting before the 1863 Act was Mr. H. H. Asquith. I am handed here extracts from a speech delivered by two British Home Secretaries in the House of Commons in March, 1900. Mr. Asquith was Home Secretary from 1892 to 1895, and in 1900 he made this statement:—

“As to garrotting, that crime had been brought to an end as a serious danger before the House, in a fit of panic, due to one of its own members having been garrotted, resorted to legislation. Garrotting was put down without resort to the lash, by a fearless but, I agree, a severe administration of the criminal law.”

On the other side of the House there was Lord Ridley, who had been Home Secretary from 1895 to 1900, and he said:—“Reference had been made to the Garrotting Act. He agreed with the history of that Act, at all events so far as London was concerned, given by the Right Hon. Gentleman, Mr. Asquith, and that the rapid and severe action which put down garrotting took place before the passing of the Act of 1863.”

As a matter of fact, many of the legal text books and other books of information have put down the particular Act referred to as 1861; it was 1863 as a matter of

fact, but I repeat that there is no evidence as to the efficacy of flogging for any of the crimes for which at various stages it has been specifically prescribed, and that most of the evidence is against it as an efficacious method. Reference has been made to what is in fact the Mosaic Law, but we should have kept at this time of day, far away from the Mosaic Law, even though we had as bad a period in the last twelve months as any period in history. One of the great dangers to the State, and to the community, in the introduction of flogging, is that the idea of flogging gets hold of men's minds and is extended from one offence to another, and to many offences. To-day it is advocated for one thing, to-morrow it is advocated for another; its failure in each does not prevent it from being defended, and it is always prescribed for something else when it has failed previously. There were many people who adopted the most severe provisions of the Mosaic Law. English people in America have adopted many of them at various stages in their history, and they have adopted whipping and have extended whipping to many things that no one here at the moment would suggest they should be extended to. They have even gone so far as to prescribe whipping for a breach of the Sabbath, for abusive language, for defamation of character, and so on. Sometime or other it will be quite within the competence of the Government here in Ireland, if we allow these things to be done now, to say that some particular offence, which at the time seemed not particularly odious, should be punished under this measure. I repeat that flogging is torture, and nothing but torture, and it is because it is torture that I object most strongly to it. It would be no use in any sense of the word if it was not for the infliction of physical suffering and the infliction of actual physical suffering must be torture. Now, we know the effect that that will have in two or three directions in Ireland and elsewhere. We remember the effects that were produced by torture on Tom Hales and we know the effect it had upon his comrades. We do not want anything of that kind in Ireland. You have got, or you ought to have got, numerous measures that you could use. From the time flogging is adopted, and from the time it will be adopted, its adoption will be advocated on the very argument and on the very

ground that the Ministry here and now are advocating it.

Professor MacNEILL: The Deputy has undertaken to correct me. He spoke about garrotting having been suppressed before the Act of 1863, and brought forward evidence of two members of the British Legislature on that point. Am I to understand that the Deputy supposes there was no garrotting, no outbreak of garrotting in Britain after that?

CATHAL O'SHANNON: Not at all.

Professor MacNEILL: There was an outbreak of garrotting after that time. It was not in London; it was in Liverpool long after that time, and at a time sufficiently recent for myself to remember it being a matter of conversation, and if I am not mistaken, it certainly was publicly believed at the time—I am not furnished with books of reference on these points—that outbreak of garrotting in Liverpool was put down by flogging.

Now, if corporal punishment inflicting pain be torture, I wonder how many Deputies here have grown up without coming through some experience of it. Of course it belongs to the old world, and it is fashionable for some people to say, nowadays, we have hospitals for dogs and people dying without hospitals. It is fashionable for a certain number of sentimentalists, nowadays, to say that corporal punishment ought to be abolished altogether. If it were in order I would like very much to call for a show of hands here among Deputies to testify, each for himself, who has not been corporally punished over and over again.

CATHAL O'SHANNON: On a point of information, may I ask Deputy McNeill if the whipping provided for in the Bill corresponds any way closely to the corporal punishment administered by a school teacher or parent?

Professor MacNEILL: I understand the Deputy to say flogging is essentially a torture. If it is so, then the flogging of smalls boys is essentially torture.

CATHAL O'SHANNON: As prescribed in the Bill.

Professor MacNEILL: I have corrected the point with regard to garrotting being suppressed before 1863. It broke out afterwards. My information is that when it broke out afterwards it was corrected by the punishment of flogging.

Mr. JOHNSON: Not so repeatedly.

Professor MacNEILL: As to the argument that this punishment, if adopted, could be extended to other things and, therefore, should not be resorted to, if we adopt that argument we will stop anything. We will fall back on the Tolstoi system of punishing nobody. That is not our system. What we are proposing here is that for crimes of a certain origin, which have become a mental disease, a very severe and marked deterrent shall be adopted, not to magnify the notion at all of the power of the State. I am certainly not out to magnify the power of the State, but to magnify the rights of the individual Irishman and Irishwoman.

Mr. JOHNSON: Deputy MacNeill has referred to the recrudescence of the flogging campaign following upon the suppressing of garrotting in London. I think it is undoubtedly true, and I am sure the statements by two Home Secretaries quoted by Deputy O'Shanon will be accepted as a fairly good evidence that at any rate London garrotting was receding if it had not been suppressed before the Garrotting Act was passed. Nobody claims, I think, that robbery with violence has ever been put down by any form of punishment. Nobody claims or has claimed here that arson will be put down by flogging. The utmost that has been claimed by the flagellants is that the epidemic of garrotting or the epidemic of robbery by violence in Liverpool which was followed by the campaign of Mr. Justice Day was put down by flogging. That is the case made by the Minister for Education. He says this is a disease which has broken out and the argument runs that in the same way as the hooligan epidemic in Liverpool which was treated by Mr. Justice Day by the lash was thereby cured, so will the fire and robbery epidemic that has been existing in Ireland recently be put down by this remedy of flogging. It is a very difficult question to decide whether the hooliganism which was attacked by Mr. Justice Day in Liverpool by the lash was as a matter of fact suppressed by the use of the lash. Mr. Justice Hopwood, the Recorder at the same time as Mr. Justice Day was carrying out his campaign, had quite the opposite view. He was the

Recorder of Liverpool and took a different view of the effect of the lash. So different was it that his contention was that following the flogging the campaign actually extended for a longer period than normal outbreaks of that kind had been extended by the very use of the lash. People came back and back again for the same offence having had the lash. It is recorded that people asked for the lash rather than be sentenced to long terms of imprisonment. The evidence is not so convincing as the Minister for Education would think. On the contrary it is very unconvincing, and different judges have different notions of the effect of the lash upon crime of this kind. If there is any doubt about the effect in curing a particular form of disease—the Minister has spoken of it as a disease and I agree with that definition—you are not going to check the disease of the mind by application of the lash to the body. I submit that here we have no evidence whatever of the increasing prevalence of those offences, and therefore there is no need adduced which at all convinces one of the necessity of pushing forward extraordinary methods of punishment. The whole case that is made in favour of this is that there may be thrown out into the country men who have been mentally affected, and who will resort to this method of crime. Can we not wait until we see whether that prophecy shows any signs of coming true? It is put forward here as a measure to stop this epidemic of crime from developing, but undoubtedly the crime, though it has been rife, has receded. The President and Ministers tell us that is so. Then, why should we introduce this extraordinary method of treating a disease which is already in the process of being cured? The Minister says you must get your medicine ready for the possibilities of a new outbreak. But I say if that medicine is only a doubtful cure, if it has been ineffective in similar classes of crime, then we should hesitate before prescribing that medicine for a disease already receding. Let us make more inquiry. Let us prepare the Civil Code after inquiry. It is clear that Ministers have not thoroughly examined evidence for and against the revival of this flogging system of punishment. The instrument has not yet been decided upon. It has not

been decided whether it is to be a lash which will cut with one stroke, that will wound or hack, or that will only slightly mark the back. No decision has been come to. The Minister has not examined yet into the merits or demerits of this instrument for the purpose of curing this disease. Is it intended to be a whip with thongs? It is not stated; it is left to the discretion of the Judge. Is it intended that it shall be a whip that will take out the flesh, such as the Russian knout? It is not stated. I submit there is not any case being made for urgency for this. The disease is receding. We have no assurance, no reason to believe, that it will necessarily become rife within the next few weeks. Let us wait, and in the meantime make a thorough inquiry as to whether the application of this kind of punishment is likely to be effective, judging by precedent. I am assuming that you are willing, for the sake of immediate gain, to do what I believe to be an irrevocable wrong. We do not believe, as the Minister thought, that he and his colleagues are any less sensitive to human pain and suffering, or have any less humanitarian feeling. It is, in my belief, the fact that Ministers have allowed themselves to suppress those feelings at the call of the intellect. They believe it is desirable to suppress those feelings, to go ahead with the work of punishment and repression, and not to allow their humanitarian feelings to have any play upon what they conceive to be their duty as judged merely by reason. I suggest it is not good politics, let alone sociology or morality, utterly to suppress human feeling.

Mr. DESMOND FITZGERALD:

There seems to be a great deal of doubt as to the effectiveness of this measure. One opponent suggests that it is abhorrent. Another suggests that the prisoners like it. Reference was made to garrotting. We need not go back to the Garrotting Act to see the effectiveness of this measure. It still exists in the Prison Code for assaulting warders. I have seen prisoners who assaulted warders who after receiving punishment were so cowed they would not answer me when I spoke to them. Its effectiveness is beyond doubt in the prisoner of to-day, and when a man suggests that a prisoner asks for it in preference to imprisonment I do not believe it.

CATHAL O'SHANNON: That is corporal punishment. The Minister for Education spoke of flogging.

The PRESIDENT: There is a great deal of sympathy and sentiment expressed by gentlemen on the other side for people who had very little sympathy with others themselves. They started out to show humanity that no matter what laws have been passed or what things have been done, all must be tempered with a superabundance of humanitarian motives. We were told here when we had to take very strong and very severe measures against the Irregulars in the early days that we were going to breed more Irregularism. It has not bred, it has not spread Irregularism. We are dealing with what one might call dying phases of Irregularism, fading to this extent that people are hesitating as to whether they will operate their terror still further by robberies or by burnings or by any other destructive experiments upon a people whose hearts they believe are filled with human kindness, thinking it was all over and that it is moral suasion that has won and not the strong arm of the State asserting authority in spite of their damned stubbornness. We have broken their stubbornness by strength. The best man amongst them admitted first that he never thought they would be executed, and secondly, that he never thought they would be sentenced to death. But he had to deal not with his friends, but with men who realised they had a great deal of responsibility and knew there were times when one must regulate his sentiment and sympathy with his duty. Even if the case were as stated that this particular form of punishment did not stop garrotting there is no use in telling me it will not stop it here. I am perfectly satisfied that it will. I have experience where the sternest and strictest measures brought home to people what we might call the sanity of the situation without eradicating the disease. I have seen people ruined with this particular form of disease. I have known them to have been in such a condition that it was as regular to them as taking their meals that they had to participate in something against society. There are several young men at present in jail. Personally, I do not think they will start this game of burning or robbery

[The President.] under arms. I do think if there is one thing more than another that will lead them to it it is the fact that we are getting more sentimental, that we are getting more sympathy with those poor sufferers who have led themselves into this. In my experience I have had to examine various orders of society. My experience invariably has been that the robber or person out to destroy is an absolute coward. When he came up against his own strength he quailed before it. When he came up against authority that was determined to exercise that authority when that authority was just, he would have had, if he could, his revenge, but he generally realised where the real strength lay, and the real strength in this physiological problem is to be shown in an utter indifference to those people's shrieks. I would like the gentlemen opposite who are as much interested in the stability of the State as we are to realise that those robbers are even more dangerous from the point of view of business and employment than any sort of political disturbance. If they doubt me in that I invite their attention to the balance sheet of the banks.

Mr. JOHNSON: There is no doubt of that. The only doubt is whether this is efficacious.

The PRESIDENT: Very good. We are on absolutely different lines with regard to that. Particular instances are quoted where Mr. Parnell got credit for abolishing that punishment in the Army. Is that a fair comparison? In one case it was a disciplinary torture that was removed from the Code regulating the British Army or Navy. But in our case what are we dealing with? Is it ordinary crime? is it something that can be explained or excused? It is not, and Deputies know that. The use of the gun has become rather too common, very much too common. I may tell Deputies that at a time when we had very great difficulty in maintaining the struggle against the British this was one of the methods adopted to correct people who committed crimes. I do not know that it was effective. I have no returns to show for it, but I have not heard of a single case of a person who got a corrective of that kind who again came before one of the Courts functioning under the Dáil during the War. I have never heard of a case.

I did know of one case of a man who so suffered, and who if he had the opportunity I am perfectly convinced he would not commit the same crime again. Afterwards he called on me. He was a young man who was misled. He was not a coward. He was ordered out of the country, and he came to me to have him allowed back. We feel as much as you do. I will not forget easily the effect of the particular incident described by the Minister for External Affairs. It has been the experience in those cases that a person once corrected in that manner does not commit an offence punishable by the same corrective.

CATHAL O'SHANNON: All that the President says may be true but it does not follow from that that this is the only method of correcting a particular kind of disease or removing a particular kind of disorder. I should really like to put the question to the two Ministers who have spoken in connection with a certain prison incident whether their object in making this provision is to prevent offenders who commit one offence from repeating that offence or whether their object is to prevent the prevalence of the disease as a social disease and not merely in an individual? The very fact that so recently as 1916 or 1917 a particular punishment was inflicted as a disciplinary measure in a prison goes to show that despite all that has been inflicted again and again in prisons for attacks on warders, violent and presumably murderous attacks, these attacks occur in those prisons again and again. It may be that a particular prisoner who has been flogged once for making an attack on a warder will not repeat that offence. A good deal depends on the quality of the prisoner just as a good deal depends on the quality and character of the young man whom the President cites as coming to him. I have met prisoners in prisons who suffered disciplinary measures of a much less severe kind for lesser offences and they did not repeat the particular offences. Some time again they might. It is arguing a bit out of the way I think to say that because in certain cases a certain effect was produced that the effect is going to be general. The weight of evidence, as I think we have clearly shown here this morning, is against all that and the very tone of the President's

speech shows what I commented on a while ago, that the whole idea behind the thing is terrorism—meeting one ferocious act by an act still more ferocious, so much so that I would be inclined to paraphrase a learned Deputy of the Dáil, who said, in giving his objections to a certain Bill, that the provisions of the Bill were largely an interference with property of a certain kind. This Bill is an interference with persons of a certain kind. That Deputy said he thought that that particular Bill ought to be called a Bill for the outlawry of certain debtors, and the ferocious destruction of the same. This Bill is alternatively popularly titled

a Flogging Bill, and might be entitled a Bill for the ferocious punishment of certain offenders.

The PRESIDENT: The Deputy asked me if I believed that any person who had been flogged would not offend again. My answer was given in reply to Deputy Johnson, who stated that there were cases in which people asked for flogging instead of some other punishment. I believe that the very fact that this Bill is passed will limit very much the particular activities that we mean to limit and that it is a deterrent rather than a punishment for particular people.

Amendment put.

The Dáil divided: Tá, 12; Níl, 37.

Tá.

Tomás de Nógla.
Riobárd Ó Deaghaidh.
Tomás Mac Eoin.
Liam Ó Briain.
Tomás Ó Conaill.
Aodh Ó Cúlacháin.

Séamus Eabhróid.
Liam Ó Daimhín.
Seán Ó Laidhin.
Cathal Ó Seanáin.
Domhnall Ó Muirgheasa.
Domhnall Ó Ceallacháin.

Níl.

1.

Liam T. Mac Cosgair.
Gearóid Ó Súilleabháin.
Seán Ó Maolruaidh.
Micheál Ó hAonghusa.
Séamus Breathnach.
Peadar Mac a' Bháird.
Deasamhain Mac Gearailt.
Micheál de Duram.
Seán Mac Garaidh.
Risteárd Ó Maolchatha.
Pilib Mac Cosgair.
Micheál de Stainias.
Domhnall Mac Cárthaigh.
Earnán Altún.
Liam Thrift.
Gearóid Mac Giobáin.
Eoin Mac Néill.
Liam Mac Aonghusa.
Pádraig Ó hOgáin.

Seosamh Ó Faioleacháin.
Scoilse Mac Niocaill.
Piaras Béaslai.
Fionán Ó Loingsigh.
Séamus Ó Cruadhlaich.
Croistoir Ó Broin.
Caoimhghin Ó hUigín.
Proinsias Bulfin.
Séamus Ó Dólaín.
Aindriú Ó Laimhín.
Seán Mac Eoin.
Eamon Ó Dúgáin.
Peadar Ó hAodha.
Séamus Ó Murchadha.
Tomás Ó Domhnaill.
Earnán de Blaghd.
Uinseann de Faioite.
Séamus de Burea.

Amendment declared lost.

Mr. DUGGAN: I beg to move Amendment 45, to delete in Sub-section (4), lines 46 and 47, the words "convicted by a court of summary jurisdiction or."

The effect of the amendment is that the Sub-section shall not apply to cases in which the persons are tried before a court of summary jurisdiction; in other words that the Sub-section will only apply in cases where people are found guilty on indictment, that is where they are tried before a Judge and jury.

Amendment put, and agreed to.

MOTION TO REPORT PROGRESS.

Mr. EVERETT: I beg to move that the Committee do now Report Progress, and ask leave to sit again to-morrow.

Mr. O'CALLAGHAN: I second the motion.

Mr. O'HIGGINS: We cannot accept that motion. I will move to Report Progress when I finish the Section.

Question put: "That the Committee Report Progress, and ask leave to sit again to-morrow."

The Dáil divided: Tá, 12; Níl, 36.

Tá.

Tomás de Nóglá.
Riobárd Ó Deaghaidh.
Tomás Mac Eoin.
Liam Ó Briain.
Tomás Ó Conaill.
Aodh Ó Cúlacháin.

Séamus Eabhróid.
Liam Ó Daimhín.
Seán Ó Laidhín.
Cathal Ó Seanáin.
Domhnall Ó Muirgheasa.
Domhnall Ó Ceallacháin.

Níl.

Liam T. Mac Cosgair.
Gearóid Ó Súilleabháin.
Seán Ó Maolruaidh.
Micheál Ó hAonghusa.
Séamus Breathnach.
Deasmhúmhain Mac Gearailt.
Micheál de Duram.
Seán Mac Garaidh.
Pilib Mac Cosgair.
Micheál de Stainneas.
Domhnall Mac Cárthaigh.
Earnán Altún.
Liam Thrift.
Gearóid Mac Giobúin.
Eoin Mac Néill.
Liam Mag Aonghusa.
Pádraig Ó hOgáin.
Seosamh Ó Faoileacháin.

Seoirse Mac Niocaill.
Piaras Béaslai.
Fionán Ó Loingsigh.
Séamus Ó Cruadhlaóich.
Croistóir Ó Broin.
Caoimhghín Ó hUigín.
Proinsias Bulfin.
Séamus Ó Dóláin.
Aindriú Ó Laimhín.
Seán Mac Eoin.
Proinsias Mag Aonghusa.
Earnon Ó Dúgáin.
Peadar Ó hAodha.
Séamus Ó Murchadha.
Tomás Ó Domhnaill.
Earnán de Blaghd.
Uinseann de Faoite.
Séamus de Burea.

Motion declared lost.

Mr. GERALD FITZGIBBON took the Chair at this stage.

[DEBATE RESUMED.]

Mr. NAGLE: I beg to move Amendment 46, to substitute in Sub-section (4), line 50, the word "may" for the word "shall." The object of the amendment is to leave to the Court to determine whether corporal punishment shall be inflicted or not. It does not make it obligatory on the Court to decide what corporal punishment, if any, shall be inflicted. I would ask the Minister to accept the amendment.

Mr. O'HIGGINS: I have given a good deal of consideration to this amendment. The farthest I could go in trying to meet the views of the Deputy as embodied in the amendment is to agree to insert in the sub-section some words such as these. After the word "Schedule" on line 50, to insert the words "shall, unless the Court is satisfied that there are special circumstances in the case which constitute a mitigation of the offence or," and then the section would read on. That is the limit of the concession that I could make to meet this amendment, and I trust it will be accepted by the Deputy.

Mr. NAGLE: I am willing to withdraw the amendment on the understand-

ing that the words mentioned by the Minister will be inserted in the sub-section.

Amendment, by leave, withdrawn.

Mr. NAGLE: I propose to move the following amendment:—"In Sub-section (4), line 53, after the words "in addition to" to insert "or in substitution for."

Mr. O'HIGGINS: I could not accept that amendment nor make any concession that would at all meet the point of view embodied. The substantial sentence is a sentence of imprisonment, and I could not agree to make the whipping sentence a substitute for that or even to leave that to the discretion of the Court.

Mr. JOHNSON: The Minister says that the substantial sentence is a sentence of imprisonment. The sentence which he relies upon, as they put it in the Courts, is the sentence of flogging. One would like to hear some justification for them both. If there is to be a sentence, if imprisonment is to be the substantial one, in the case of a person found guilty on indictment and sentenced to, say, three years' penal servitude plus flogging, the flogging may deter him from committing robbery by violence certainly for three years, but so will the penal servitude. The argument runs

that it will deter other people if he is sentenced to be flogged. Does the Minister consider that the mere pronouncement of a sentence is a thing that will deter other people or is it not contended that it is that on coming back into society the impression that flogging has made on that prisoner will be related to those around him, the pain that he suffered, the indignity he suffered—is it not those things being told to his friends and associates in crime that are to be the deterrent? Is not that the argument? One cannot understand how the detention for three years plus punishment with the lash is going to be a deterrent to other people unless the prisoner is able to show the scars of his wound stripes or, at least, to tell the stories of the pain that was inflicted. The reliance upon flogging as a remedy for this social disease, this disease of crime, surely makes it unnecessary that there should be a three years' detention as well. Is it necessary that there should be three years' penal servitude, or any other period of punishment, plus flogging if flogging is the cure? The Minister for Education must be mistaken. Does the President rely on flogging as a cure for this disease? If so, why also ask for imprisonment? If it is to be applied as a cure for a disease even, if it is to be applied for the purpose of deterring the prisoner from doing the same thing again, if flogging is to be the deterrent there is no need to pile on the agony and give any imprisonment in addition. Or is it to glut the ire of the flagellants that they must have imprisonment for fear flogging is not a corrective remedy or must they have flogging for fear imprisonment is no use? The case made on behalf of flogging as a method of punishment surely justifies the Dáil in thinking that that will be enough. If all that is claimed for it is justly claimed then there is no need for further punishment unless it is intended merely to punish out of vengeance. Now I ask the Minister to tell us his mind on this matter, whether he is relying upon the flogging to prevent the development of this crime or the recurrence of this crime or whether he is relying upon imprisonment to prevent an individual committing the crime anew in case flogging was not satisfactory as a deterrent? I ask the Minister to let us know upon which method of punishment he relies.

Mr. O'HIGGINS: I am surprised that Deputy Johnson, if he really believes all he has said with regard to the effect of flogging upon an individual, should be so anxious to have the individual suffering from its effects turned loose on the community immediately after the operation. As to which of these I rely on, I rely on the cumulative effect of both. I think, as I have said, that imprisonment alone would not be a deterrent sufficient to check the particular tendency there is in the country, and there is likely to be in the country, towards these two crimes which strike at the very root of society. I think that the flogging plus the incarceration, which gives a person time to think things over, will have a good effect. I rely not on one alone, but on the effect of both.

Mr. JOHNSON: You are backing for a win and a place?

Mr. O'HIGGINS: Yes.

Mr. LYONS: I think the word used by the Minister—the word “operation”—is the proper interpretation of this Bill. He used that word when he asked whether Deputy Johnson wanted to have a person who was flogged turned out amongst the public the day after the operation. Like Deputy Johnson, I am surprised that the Minister wants to detain prisoners for three years after being flogged. If flogging is the remedy you say it is why do you try to detain people for three years afterwards? I fail to see why the Minister objects to this amendment. It is a very slight one and it is not going greatly to facilitate the unfortunate wretch who falls into your clutches, but it saves him a little pain and anxiety. I ask the Minister to make some little concession at least and accept a trivial amendment such as this.

Mr. JOHNSON: I find another English Judge, the one originally quoted, Mr. Justice Matthew, actually dealing with this specific case in Birmingham in 1898. There, of course, the flogging remedy was peculiarly adapted, in the minds of the advocates, for crimes upon women and children. Mr. Justice Matthew pointed out “it would be inhuman to add the lash to a sentence of penal servitude, for such a savage sentence would defeat its own ends. I believe

[Mr. Johnson.]

that if a man had any good in him and is punished with the cat he is for the rest of his days either a broken-hearted man or becomes a reckless criminal." Mr. Justice Hawkins said, "You make a perfect devil of the man you flog," and when questioned as to the supposed efficacy of flogging in the case of garrotters he said, "I do not believe it ever did any good. In my opinion the cat and the birch do not substantially operate as powerful and permanent deterrents from the crimes for which they are applied either as respects the criminals themselves, upon whom they are inflicted or as effective warnings to others minded to commit similar offences. Those who commit serious crime for the sake of plunder are oftentimes in a state of excitement which deprives them of the power of reflection and renders them reckless of the consequences." The man who had actually flogged two hundred offenders wrote that he had made a very careful and unbiassed study of the effect of the whipping posts and had come to the conclusion that it was all bad. "It brings out of any man the spirit of revenge; it is hurtful and he ranks himself against law, order, and society." A recent Prime Minister of England, Mr. Asquith, when Home Secretary, said—

Mr. BLYTHE: On a point of order I think the Deputy is really repeating the arguments that he used on amendment 44.

Mr. JOHNSON: I admit I am repeating arguments, but I am repeating them in reference to this amendment. They had not the effect I desired on the other amendment but they may have on this.

ACTING CHAIRMAN (Mr. FitzGibbon): The Deputy is not, I think, entitled to debate the question whether flogging should be inflicted. The only point on this amendment is whether it should be in addition to or in substitution for another punishment.

Mr. JOHNSON: That is what I am directing my thoughts to—that in view of

the effect of flogging it should be at least an alternative and not an additional punishment. The case that is being made by all who have spoken is that flogging was essentially a form of punishment for an exceptional form of crime in exceptional circumstances. The people had lost their balance, they had become moral wrecks and were apt to follow out this special course of crime, robbery under arms, and arson, and it was required in these special circumstances that there should be a form of punishment specially adopted in this Bill. Now, the argument was clearly made in defence of the section that the lashing, scourging, whipping, or flogging or whatever name may be given to it, was peculiarly adaptable to remedying this disease. No case was made that it should be merely an accompaniment of the ordinary method of punishment and, on the contrary, the case was made that it was to act as a deterrent. I think we are entitled to know how it is going to deter.

ACTING CHAIRMAN (Mr. FitzGibbon): The Deputy is going beyond the ruling. It has been decided that flogging may be inflicted and the only question is whether it should be inflicted in addition to or in substitution for the other remedy.

Mr. JOHNSON: I think I am in order in arguing that the deterrent effect did not depend upon there being imprisonment accompanying it. It cannot deter other people, except the prisoners, unless those other people are made aware in some way of the effect of the flogging upon the person who is punished, and they cannot be made aware of that if the person is detained for three years in a prison. The case for double punishment ought to be made before we are asked to agree that there will be this double punishment. The amendment is that either one or the other may be inflicted, but not both, and I think the Dáil is entitled to have some reason given to it as to why, when flogging has been imposed as a penalty, a prisoner should have three years to get over it.

Amendment put.

The Dáil divided: Tá, 12; Níl, 35.

Tá.

Tomás de Nógla.
Riobárd Ó Deaghaidh.
Tomás MacEoin.
Liam Ó Briain.
Tomás Ó Conaill.
Aodh Ó Cúlacháin.

Séamus Eabhróid.
Liam Ó Daimhín.
Seán Ó Laidhin.
Cathal Ó Seanáin.
Domhnall Ó Muirgheasa.
Domhnall Ó Ceallacháin.

Níl.

Liam T. Mac Cosgair.
Gearóid Ó Súilleabháin.
Seán Ó Maolruaidh.
Micheál Ó hAonghusa.
Séamus Breathnach.
Deasmhumhain Mac Gearailt.
Micheál de Duram.
Seán Mac Garaidh.
Pilib Mac Cosgair.
Micheál de Staineas.
Domhnall Mac Cárthaigh.
Earnán Altún.
Liam Thrift.
Eoin Mac Néill.
Liam Mac Aonghusa.
Pádraic Ó Máille.
Seosamh Ó Faoileacháin.
Seoirse Mac Niocaill.

Piaras Béaslai.
Fionán Ó Loingsigh.
Séamus Ó Cruadhlaoch.
Caoimhghin Ó hUigín.
Proinsias Bulfin.
Séamus Ó Dóláin.
Seán Mac Eoin.
Proinsias Mac Aonghusa.
Eamon Ó Dúgáin.
Peadar Ó hAodha.
Séamus Ó Murchadha.
Tomás Ó Domhnaill.
Earnán de Blaghd.
Uinseann de Faoite.
Séamus de Burca.
Croistoir Ó Broin.
Aindriú Ó Laimhin.

Amendment declared lost.

Mr. JOHNSON: I beg to move Amendment 48:—In Sub-section (4) to delete the word "privately" and to substitute therefor the word "publicly." I am moving this amendment with the object of getting from the Minister some explanation as to the reason why this operation of flogging should be performed in private. I am really anxious to know—

Mr. D. MCCARTHY: I wish to ask is this amendment in order?

Mr. O'CALLAGHAN: Yes.

ACTING CHAIRMAN (Mr. FitzGibbon): Order, order. When Deputy O'Callaghan is selected to fill this place in the Chair he can give his decision. At present the matter is in my hands. The amendment is in order. Whipping was inflicted publicly up to a comparatively recent time, and it is in order to propose that it should be done in public again.

Mr. JOHNSON: I would like to have heard any reasons or suggestion why it was not in order or whether it was indecent to think that flogging should be conducted publicly. If the amendment suggested indecency or obscenity I could understand its being out of order. I am sure the Minister is not going to defend this operation being done in pri-

vate on the ground that it is quite clean and decent if done privately, but obscene and indecent when done publicly. I am quite anxious to hear from the Minister his justification for the provision that this whipping shall be private. I think there is a good deal of risk entailed upon the public in providing that it should be a public punishment. I realise that the whole system is rather calculated to excite morbid feelings, and generally to inflame those feelings that ought to be suppressed, and I think it is likely that the public operation of flogging would be damaging in that regard, but notwithstanding that risk I am inclined to think that on balance it is rather better that if the operation is to be performed at all it should be done publicly rather than privately for several reasons. First, it would be known to the public indirectly, if not directly, what kind of an instrument had been ordered to be used by the Magistrate or the Judge who imposed the sentence; it would be possible to make public what the effects on the culprit, on the prisoner who is flogged, entailed in the first instance. But there is also the very grave consideration that there might then be a doctor available to ensure that the flogging did not entail capital punishment. It is necessary that a doctor should be at hand. One eminent medi-

[Mr. Johnson.]

cal man, Dr. Marshall Hall, says: "If the surgeon wishes to appreciate the effects of flogging on the culprit let him not stand far off and look on, but let him draw near and keep his finger on the patient's pulse. At each lash he will find that pulse falter. The man may brave it out, may suppress all expression of pain under this modern torture; but his heart, both physically and psychically, quails under it, and the pulse tells the tale; the heart sometimes so quails as to refuse to perform its pump-like office, and the silent patient turns pale and faints away. I assert from positive knowledge that each lash goes literally to the very heart, paralysing or enfeebling its action."

Now, the public infliction of this pain would at least make it possible for a surgeon or a doctor to be at hand to deal with the patient if the effect was greater than the Minister had contemplated. The gain, I suggest, is rather more than the loss, and I think that that is because the people who have not given way to morbid feelings would be made aware of the effects and then there would be some change made in the system. The privacy of flogging entails risks that I think we should not run. No doubt in the regulations that the Minister will make he will lay down that a certain number of doctors will be at hand, and that these doctors shall have certain wound dressings, and that all the requisites of the laboratory or of the dissecting table should be available. But they are not laid down in the Bill, and we have to trust to the good feeling of the Minister in that respect. I think, while I am somewhat doubtful, and have admitted my hesitation as to the relative merits of private as against public flogging, or the relative demerits of private as against public flogging, I am open to be convinced by the Minister that the privacy in this matter is of more value in preventing the development of the crime than public flogging, and that private flogging does not entail greater risk of inhumanity than public flogging. Perhaps he will also be able to convince me that publicity would, as a matter of fact, lead to the kind of morbid excitement that used to follow public hangings and that, on the whole, the kind of excitement that is created by gloating over pain inflicted upon a fellow mortal is not healthy. If that was the Minister's

reason for ensuring that this flogging shall be privately done, or if he has any other reasons equally strong, I am quite prepared to be convinced, and I think it would be quite easy to convince me that publicity is not desirable in this matter.

Mr. O'HIGGINS: I am not accepting this amendment.

Mr. LYONS: After hearing that answer of the Minister to Deputy Johnson it makes one imagine that all the time taken up by the promoters of the Bill, and all the time the Deputies have given to criticism of the Bill have been absolutely wasted. If this amendment cannot be accepted by the Minister, and if he is quite genuine in his belief that this torture cannot be administered publicly, then I fail to see the necessity for having such a clause at all. Take, for example, the case of an offender flogged inside the prison. You give him from 25 to 50 lashes with whatever instrument may be recommended by the judge. Now, that will certainly have the effect in some slight way upon that offender, and if the Minister thinks that this clause in his Bill is going to do the wonderful miracles he has in mind, it would be much more proper as far as that is concerned, to have this offender taken through the streets, stripped and flogged as he passes along. The example to the remainder of the citizens of the Saorstát, the people who are to be saved by this clause in the Bill, would be very great indeed. To my mind the Minister wants to go back to the days of Jeanne d' Arc; he wants to go back to the time when the Christians were burned at the stake, and I think if the Minister did really bring forward such a Bill it certainly would be opposed from these benches, but it would be supported by Deputies on the benches on the other side of the House.

If a punishment is to be inflicted, or if you are to torture a citizen of the Saorstát, who may fall into your clutches, and if, through his torture, you want to show a good example to the citizens of the Saorstát, then let the victim be tortured in public. Why is it that he will not be tortured in public? Simply because the Minister and his supporters are ashamed of having their acts made public. That is why the Minister will not accept this amendment. I am sure it would look very degrading to the Government to have a man taken

through the streets and brought probably to some public building, and to see two or three men scourging him with a lash until he had received from 25 to 50 strokes in front of all his fellow-citizens. Think what an effect that would have on those people who lived to see the day that their Government inflicted punishment of a kind that foreign Governments had abolished. It may have an effect, but why fight shy of it? The members of the Government are fighting shy of it, the Minister in charge of the Bill fights shy of it. He does not want to come out publicly; he does not want cries to be heard from a person whose flesh is being cut off his bones. He is prepared to do it behind prison walls in order, as he tells us, to safeguard the interest of the citizens of the Saorstát. If flogging will be instrumental in preventing crime, and in the opinion of the author of the Bill it will, then why not do it in public? There is no use in cloaking your tactics if they are to be instrumental in preventing crime such as robbery and arson. You will not take these prisoners out and flog them publicly, because you know that you yourselves would have to pay the penalty.

CATHAL O'SHANNON: I would like to have heard from the Minister why exactly he does not accept this amendment. A certain Irishman has said that if flogging does all that is claimed for it and is really in a sense a messenger of light, why hide your birch under a bushel? The Minister does not say, and no supporter of the Minister says. I suggest that one of the reasons is that for once the sense of decency and humanity of Ministers has come out. They felt that the spectacle and the effect on public feeling and on the public mind would be such that there would be no public opinion behind such an institution except such public opinion as individual Deputies might give expression in the Dáil. I have here a description of one or two floggings of comparatively recent date, indicating the method by which the thing is done, and I suggest that if the Minister really wants to show all the citizens how much in earnest they are in carrying out the duties that are imposed on them—duties which they claim cannot be fulfilled in respect of certain offences except by flogging—it would be not exactly edifying, but at all events educa-

tive to a certain degree for the citizens to know exactly how the thing is done. If that is so it might well be done in public and not in private. One description I have says:—

“The prisoner is fastened to a triangle with something somewhat resembling stocks so that he could not move hand or foot. The back is bared; the man who wields the cat shakes out its nine thongs, raises it aloft with both hands, and deals the criminal the first blow across the shoulders. A red streak appears on the white skin. Again the thongs are shaken out, again the hands rise, again the whips are brought down with full force, and the streak on the skin grows redder and broader. A turn-key gives out the number as each stroke falls, and the silence is only broken by his voice, by the descent of each successive blow, and by the cries or groans of the sufferer. But though there are instances in which the ruffian proves himself a coward, and yells with the very anticipation of pain before he has even been struck, there seems, for the most part, to be the same spirit in the flogging room which the highwaymen formerly displayed on the gallows. The man who has been guilty of the most atrocious cruelty will do his best to conceal the smart which he is made to feel himself, and if any sound is heard from him at all it proceeds from an involuntary action of his vocal organs, which he strives his utmost to check. After twenty lashes, he will retain a look of defiance, though almost fainting and barely able to walk to his cell.”

I quote the following remarks made by an English legislator, Mr. J. M. Henderson, in the British House of Commons, in November, 1912. He says:—

“On the invitation of the Home Secretary I went to see the lash. It consists of nine thonged whip-cords thirty-three inches long. The Home Secretary tells me that it does not draw blood. I am not a strong man, but I will undertake, if the Home Secretary will allow me to practise on him, to draw blood in several places at the first blow. Of course, if you brought the swish down lightly, you would not hurt anybody; you would not twist the cord; but if you use the wrist, as you must do, you are bound to cut the flesh. I care not what any constable says, I will undertake

[Cathal O'Shannon.]

what every stroke of the thong will cut the flesh. If that is not torture, then I do not know what is torture."

Another instance:—

"The prisoner is strapped down in a half-kneeling, half-lying position, with the head over the end of a wooden frame following the curves of the body, called in humorous prison parlance the 'pony,' whipped as a schoolboy is whipped, but with a strong rod pickled in brine, and with so much severity experts inform us that the flesh is more or less raw, like raw beef. The face is very much contorted, and the mouth open and inclined to gasp, with an inclination to tears. A man would flinch back with his whole body, and then, unless very tightly strapped, if the birch catches him in the act of flinching too soon his heels fly up as if by galvanism."

So that there is not very much difference between the infliction of the punishment by the birch or the cat. I put it to the Dáil that if the purpose of the provisions of this Bill is to be deterrent and an example, then if it is to achieve its purpose at all except upon the particular individual, it should be done in the presence of a collection of individuals, so that nobody can mistake its purpose.

Mr. JOHNSON: In view of the eloquent defence made for private flogging, and from the defence made by Deputies in favour of the Bill as it stands, I am prepared to withdraw the amendment.

Amendment, by leave, withdrawn.

Mr. NAGLE: I move Amendment No. 49, as follows: "In Sub-section (4), line 56, to delete the word 'sixteen' and to substitute therefor the words 'twenty-one.'" This amendment merely tends to increase the age from sixteen to twenty-one, the age under which a person would be liable to twenty-five strokes.

Mr. O'HIGGINS: I will meet Deputies later on the matter of strokes for persons over and under the age of sixteen, but I am not inclined to agree to an alteration in the age set out here. It is the age marking distinctions in any previous legislation where a penalty of flogging was imposed, and I think it is a sensible section, and see no cause for changing it. The man of seventeen or

eighteen years of age who goes out to rob, can take a man's penalty for it. The age of sixteen is, as I say, the age mentioned in previous legislation. I have no doubt it was arrived at for good and sufficient reasons, and I am not prepared to agree to the alterations.

Mr. COLOHAN: Paragraph A says that the instrument used shall be a birch rod. I would like the Dáil to understand that it is not the innocent instrument it seems to be in the paragraph. The birch rod, when used by a practised flogger, can do almost as much execution upon the back as a cat-o'-nine-tails. The birching of young sailors in the Royal Navy, rated as boys, but in reality almost men, was practised up to 1906, and the published descriptions of the punishment as then inflicted hold good in all essential points of the present use of the birch upon prisoners. I quote from one of these accounts. "The most degrading and truly demoralising chastisement is the birch. The offender is strapped hand and foot. With each stroke the flesh is seen to turn red, blue, and black."

Mr. O'HIGGINS: Is this relevant? Is not this a question of flogging in the British Navy

ACTING CHAIRMAN (Mr. FitzGibbon): The question raised by the amendment is whether the age at which whipping should be inflicted is to be sixteen or twenty-one. The question of the instrument does not arise.

Mr. COLOHAN: I am showing why the age should be increased, that if flogging with the birch is so severe the age should be increased to twenty-one.

ACTING CHAIRMAN (Mr. FitzGibbon): The effect of your remarks seems to be that a severer penalty ought to be imposed on people between the age of sixteen and twenty-one.

Mr. JOHNSON: I think that is not the implication at all. It is acknowledged by the Minister, notwithstanding what Deputy Colohan may say or suggest—I do not think he has suggested it—that the cat or the lash is a more severe instrument than the birch, and if the birch is to be the instrument to be used on young persons I submit that it is in order to say what would be the effect of the punishment of the birch upon these young persons.

ACTING CHAIRMAN (Mr. FitzGibbon): Not I think on the question of between sixteen and twenty-one. If it were to provide that those under sixteen were not to be flogged I could understand it. This deals with the raising of the age, and Deputy Colohan is reading passages to show that the birch is very severe.

Mr. COLOHAN: I am trying to prove that the punishment is so severe that the age should be raised in order that the person flogged should be able to bear it.

ACTING CHAIRMAN (Mr. FitzGibbon): The amendment would not have the effect of exempting anybody from the infliction of punishment by the birch.

Mr. JOHNSON: Is it not a good reason for raising the age from childhood to manhood to show the effect of punishment on children by a particular instrument? It is common ground, I think, that a child is not able to bear the same pain as a man. If it can be shown that the birch causes severe pain it follows that it is not fit punishment for a person under twenty-one.

ACTING CHAIRMAN (Mr. FitzGibbon): The argument Deputy Colohan was putting forward was that the birch was too severe to be used at all.

Mr. NAGLE: I think that the Deputy's argument was, that the birch being so severe and limited to boys of sixteen years of age, the other instrument used on boys would be even more severe than the birch and that the birch should be confined to persons over twenty-one.

ACTING CHAIRMAN (Mr. FitzGibbon): That would have been a legitimate argument, but that was not the argument Deputy Colohan was putting forward.

Mr. COLOHAN: I think the age should be raised to twenty-one. The birch can be used by a practised flogger

to do considerable damage to a man's back and leave the bones bare.

Mr. LYONS: Surely a child of sixteen is really too young to receive the birch. A boy is not fully developed until he is twenty-one. To vary an old axiom "blessed is he who expects little for he shall receive less." That is what we have received in this amendment. If it is a thing that the Minister is under the opinion that a boy of sixteen years of age could possibly be guilty of committing such a crime, which would entitle the judge to pronounce such a sentence as inflicting so many strokes of the birch, I am sure that the Minister for Home Affairs, or any of his supporters on the Government benches have not yet succeeded in procuring that treasure of a son at the age of sixteen. I ask any father of a son of sixteen would he like to see his child taken out, because it was imagined that somebody told somebody else that his son committed a certain act, and given so many strokes of the birch. I certainly would not, and I would use every means in my power to compel the prosecuting solicitor to prove that my boy was guilty, and I am sure that every Deputy would want to do the same thing. A child's back must be naturally tender and soft.

ACTING CHAIRMAN (Mr. FitzGibbon): The only question is whether the age should be sixteen or twenty-one.

Mr. LYONS: I am trying to do my best to prove that the age limit should be extended from sixteen to twenty-one. Certainly a child of sixteen must have a soft and tender back.

ACTING CHAIRMAN (Mr. FitzGibbon): Deputy Lyons is out of order. Boys under sixteen may be whipped under this Bill. Sixteen is not the age below which any whipping can be inflicted.

Mr. LYONS: I ask the Minister to accept at least some portion of this amendment in order to bring the age up. Do not make enemies, try and make friends. For goodness' sake chuck out the Flogging Bill holus bolus.

Amendment put.

The Dáil divided: Tá, 12; Níl, 82.

Tá.

Tomás de Nóglá.
Riobárd Ó Deaghaidh.
Tomás MacEoin.
Liam Ó Briain.
Tomás Ó Conaill.
Aodh Ó Cúlacháin.

Séamus Eabhróid.
Liam Ó Daimhín.
Seán Ó Laidhín.
Cathal Ó Seanáin.
Domhnall Ó Muirgheasa.
Domhnall Ó Ceallacháin.

Níl.

Liam T. Mac Cosgair.
Gearóid Ó Súilleabháin.
Micheál Ó hAonghusa.
Deasmhúmhain Mac Gearailt.
Micheál de Duram.
Seán Mac Garaidh.
Pilib Mac Cosgair.
Micheál de Stainiosa.
Domhnall Mac Cárthaigh.
Earnán Altún.
Liam Thrift.
Eoin Mac Néill.
Liam Mac Aonghusa.
Pádraic Ó Máille.
Seosamh Ó Faioleacháin.
Seoirse Mac Niocaill.

Piaras Béaslaí.
Fionán Ó Loingsigh.
Séamus Ó Cruadhlaoidh.
Caoimhghín Ó hUigín.
Proinsias Bullín.
Séamus Ó Dólaín.
Seán Mac Eoin.
Proinsias Mac Aonghusa.
Eamon Ó Dúgáin.
Peadar Ó hAodha.
Tomás Ó Domhnaill.
Earnán de Blaghd.
Uinseann de Faoite.
Séamus de Burca.
Cristóir Ó Coin.
Andriú Ó Laimhín.

Amendment declared lost.

At this stage An Ceann Comhairle resumed the Chair.

Mr. O'CONNELL: I beg to move Amendment No. 50, to delete in Sub-section (4), line 56, the word "sixteen," and to substitute therefor the word "eighteen." It is with considerable reluctance that I move this amendment. I had hoped that the Minister would have accepted the last amendment.

Mr. O'HIGGINS: I was so much impressed by Deputy Lyons' argument in favour of the last amendment that while I could not accept it, I decided to accept this one.

Amendment put and agreed to.

CATHAL O'SHANNON: As regards Amendment No. 51, standing in my name, I ask leave of the Dáil to withdraw it.

Amendment, by leave, withdrawn.

Mr. JOHNSON: As regards the next two amendments, 52 and 53, I understood that the Minister was going to make some concessions regarding the number of lashes to be given.

Mr. O'HIGGINS: I am accepting Amendments 52 and 53.

AN CEANN COMHAIRLE: That means that in Amendment 52 it is agreed to delete the words in Sub-section (4), line 58, "twenty-five," and to substitute

therefor the word "twenty," and in Amendment 53, Sub-section 4, line 61, to delete the word "fifty," and to substitute therefor the words "twenty-five."

Amendments 52 and 53 put and agreed to.

Mr. LYONS: I am not moving Amendment 54, which proposed to delete in Sub-section (4), line 61, the word "fifty," and to substitute therefor the words "thirty-five."

Amendment, by leave, withdrawn.

Mr. O'CONNELL: I beg to move Amendment 55, to delete Sub-section (5).

In moving this amendment I desire to say that I understand, that under the procedure of a Court of Summary Jurisdiction, if certain cases come before that Court and a question of title is involved, it is not competent for the Court to deal with these cases until the question of title has been settled. As I understand the matter, this Sub-section in effect gives power to a Court of Summary Jurisdiction to deal with such cases, and if a question of title is pleaded it will not, I understand, hold good. Under this Bill a Court of Summary Jurisdiction would have power to deal with certain offences set out in Part II of the Schedule. It is proposed, for instance, to give power to the Court to deal with such offences as wrongful entry on, and the

retention of the possession of land, and the "interfering with, or preventing without lawful authority, the lawful occupation, use or enjoyment of any land or premises." Cases may occur in which a person enters on the possession of land, and then there is the question whether or not he has the right to enter on the land. A case might also occur where a person would dispute the right to a certain passage, and in furtherance of that right force a gate or door. If this Section is inserted in the Bill it will, to my mind, prevent a question of title being settled by a Court competent to settle such a question, and while a man may possibly have a right, still he is not entitled to plead that right to possession, or a title to the land by the insertion of this Sub-section. It seems to me to deprive a man of such a right, and I, therefore, move the deletion of the Sub-section.

Mr. O'HIGGINS: The Deputy is right in stating that in the old Petty Sessions Courts questions of title to land, and questions of title generally, were not decided. The Deputy will remember that the magistrates at the time were not lawyers, and there was a sound reason for excluding questions of title. He must know, also because of that exclusion, that it was a common thing to drag in a question of title in order to bar a case being heard before these Courts. The District Justices at present functioning throughout the country are lawyers, either Solicitors or Barristers, and in fact the Judiciary Committee has recommended that title jurisdiction be extended to them. There seems, then, no reason for continuing the bar that prevailed when local lay magistrates sat in the old Petty Sessions Courts. I am not prepared to accept the Deputy's amendment.

Mr. O'CONNELL: Do I understand that the position taken up by the insertion of this Sub-section is really an advance portion of the Judiciary Bill? That seems to be the effect of the Minister's statement, that you are going to give certain powers under this Bill which, apparently, are recommended under another Bill that we have not yet seen, and that you are going to change and increase the powers of the District Justices. They have not that power at the present time, and it seems you are going to give it to them now.

It seems to me that is a matter which should be reserved until the Bill, dealing with the whole judicial system, is introduced. I do not see what object is to be gained by inserting in this Bill a part of the legislation that, apparently, is to be provided under the Bill dealing with the Judicial system. I think it is wrong that this Sub-section, enlarging the powers of the District Justices, should be introduced in this Bill. The matter, I submit, is one that should form portion of the Bill which will come up when the whole judicial system is being settled.

Mr. O'HIGGINS: The effect of the Sub-section is simply to ensure that, if any of the offences mentioned in the Schedules are committed then the District Justices shall have power to try and to deal with these offences, and that a person cannot debar the Summary Court from hearing and trying his case simply by raising a point about title. This Sub-section is not an encroachment on the Judiciary Bill. It is simply a common sense recognition of the fact that there is not now the same reason that there was in the past for excluding cases from a Summary Court, simply because some question of title was dragged in. As I have pointed out already, these questions generally were dragged in with a view to barring jurisdiction.

Mr. JOHNSON: I confess I am not very familiar with the meaning of this Sub-section. Offence Number 5 in the Schedule, dealing with property, states "Wrongful entry on and retention of possession of land without colour or pretence of title or authority." A man may contend that he has a title to the property, and his case may be mixed up with several other cases. It is not uncommon that a person who has a grievance is apt to think of the alleged offender as being liable, not to civil proceedings, but to criminal proceedings, and would take action if only for the purpose of frightening him off, take action which would bring the alleged offender to the criminal courts. From the reading of the Sub-section, and from the discussion that has taken place and the statements of Deputy O'Connell and the Minister, it seems to me that a dispute as to a right of possession, a dispute as to title which ought to be

[Mr. Johnson.]

dealt with by the Superior Courts, would now be dealt with by Courts of Summary jurisdiction simply on the ground that the alleged offence had been committed, whereas the civil case between two parties which may be in process of preparation may be brought to the court as a civil claim. One party to the dispute may say, "I will have a better chance against my opponent if I can charge him before a Court of Summary Jurisdiction, as such a charge will enable me to stave off the civil cases," and under this Sub-Section that shall be done. It rather occurs to me that some such development might arise from the passing of this Sub-Section, and I wonder if that is so.

Mr. O'HIGGINS: I do not think that can arise, and in fact I am sure it could not arise. The District Justice, if he were satisfied that any real substantial question of title was involved in the case, would send it on for trial, but Deputies must know that a case of that kind was barred in the old Petty Sessions Court, and that all kinds of questions about title were raised simply to bar jurisdiction. The moment, practically, that the word title was mentioned in the old Petty Sessions Courts, the case was dropped, and it had to be dropped instantly. It is ridiculous that such a bar to jurisdiction over matters of that kind should be continued at a time when lawyers constitute these Courts. If a serious intricate question of title were found to be involved, no District Justice would proceed to deal with that case summarily. I think the Deputy ought not to feel any uneasiness on that score.

Mr. O'CONNELL: I wish to point out that under this Bill, and under this sub-section, the offences to which I have called attention are to be dealt with very severely, and special punishments are being attached which I think I may reasonably say would not be attached in ordinary cases, or under the operation of the ordinary civil law, to such offences. That is all the more reason, I think, why a departure should not be made from the ordinary procedure. The Minister said that immediately the word "title" was mentioned in the old Petty Sessions Courts, that without practically any examination of whether a question of title

was involved or not, the magistrates had no more to do with the case. I can quite conceive that solicitors would drag in the word simply to frighten magistrates off from having anything to do with the case. I do not know what are the exact regulations of the law on this matter, but I take it, it would be only reasonable to expect that the District Justice should be satisfied that there was, in fact, a question of title involved. If that is the present regulation, litigants must reasonably satisfy the District Justice that a question of title is involved. I am quite certain that the District Justices will be in a far better position to weigh up the frightening arguments of solicitors, and to know exactly what the word "title" means. They will be in a far better position to do that than the old J.P.'s, and if they find that the matter is frivolous and that no question of title was involved they will be competent to deal with that. If the District Justice is satisfied that a question of title is involved and finds that he will not be in a position to deal with it, it seems to me, from reading the Sub-Section that, even though he is satisfied that a question of title is involved, he will still feel that the insertion of this Sub-Section empowers him to deal with it. That is my difficulty. I am quite willing to agree with what the Minister says that this question of title should not be dragged in by the way. What I wish to ensure is that when a question of title is really involved, it will debar the District Justices from deciding on the matter.

Mr. O'HIGGINS: I can go no further than the assurance that I have given the Deputy. The District Justice would not attempt to deal with any case in which a substantial question of title is found to be involved. I cannot meet the Deputy on the amendment.

Mr. O'CONNELL: On what does the Minister base his statement that the District Justice would not deal with a case where a substantial question of title was involved? My point is that the District Justice might reasonably think that this sub-section empowered him to deal with such a case.

Mr. O'HIGGINS: In the very wording of the section the jurisdiction of a Court of Summary Jurisdiction in respect

to any of the offences mentioned in Part 2 of the Schedule to this Act shall not be ousted by reason of title being drawn into the question. The mere frightening mention of "title" would not debar the District Justice from dealing summarily with the offences mentioned in the Schedule. The Courts of Summary Jurisdiction are for a particular purpose. The Justice would not proceed, but would

send on to a higher Court, cases in which a serious substantial question of title was involved. I want to refer to one argument that was raised. It was almost suggested that the proper course for a person to assert his legal right was to do some wrongful act, some act of violence. Of course, that is not the position.

Amendment put.

The Dáil divided: Tá, 12; Níl, 34.

Tá.

Tomás de Nógla.
Riobárd Ó Deaghaidh.
Tomás MacFoin.
Liam Ó Briain.
Tomás Ó Conaill.
Aodh Ó Cúlacháin.

Séamus Éabhróid.
Liam Ó Daimhin.
Seán Ó Laidhin.
Cathal Ó Seanáin.
Domhnall Ó Muirghessa.
Domhnall Ó Ceallacháin.

Níl.

Liam T. Mac Cosgair.
Gearóid Ó Súilleabháin.
Seán Ó Maolruaidh.
Micheál Ó hAonghusa.
Séamus Broathnach.
Deasmhughain Mac Gearailt.
Micheál de Duram.
Seán Mac Garaidh.
Pilib Mac Cosgair.
Micheál de Staineas.
Domhnall Mac Cárthaigh.
Earnán Altún.
Liam Thrift.
Gearóid Mac Giobúin.
Eoin Mac Néill.
Liam Mac Aonghusa.
Pádraic Ó Máille.

Seosamh Ó Faioleacháin.
Seoirse Mac Niocaill.
Piaras Béaslai.
Fionán Ó Loingsigh.
Séamus Ó Cruadhlaoich.
Cristóir Ó Broin.
Caoimhghin Ó hUigín.
Proinsias Bulfin.
Séamus Ó Dóláin.
Seán Mac Eoin.
Proinsias Mac Aonghusa.
Eamon Ó Dúgáin.
Peadar Ó hAodha.
Tomás Ó Domhnaill.
Earnán de Blaghd.
Uinseann de Faioite.
Séamus de Burea.

Amendment declared lost.

[DAIL RESUMES.]

AN CEANN COMHAIRLE: The Committee in accordance with the Resolution will now Report Progress, and sit again to-day. The Dáil is, accordingly, ad-

journed in accordance with the Standing Orders until 12 o'clock to-day.

The Dáil adjourned at 8 o'clock a.m. on Friday, July 13th, to 12 o'clock noon on same day.

DAIL EIREANN.

DE HAOINE, 13ADH IÚL, 1923.

(Friday, 13th July, 1923.)

Cromadh ar obair an lae ar a 12.8 p.m.
Bhí an Ceann Comhairle, Mícheál
O hAodha, 'sa Chathaoir.

CEISTEANNA—QUESTIONS.

[ORAL ANSWERS.]

EX-MEMBERS OF R.I.C.

SEAN Mac GARAIDH and SEAN O MAOLRUADH asked the President whether he is aware of the great financial distress prevailing amongst ex-members of the Royal Irish Constabulary who resigned or were dismissed on political grounds; whether he will undertake to introduce during the present Session a Bill to provide for those whose claims were passed by the Committee of Enquiry into the resignations and dismissals from that force during the British regime.

The PRESIDENT: I have nothing to add to the reply given on 26th ultimo to a similar question asked by Deputy de Nogla, which was:—Legislation to provide for ex-members of the R.I.C. whose resignations or dismissals were caused by their national sympathies will be introduced as soon as the pressure of Parliamentary and Departmental business permits.

Mr. JOHNSON: Can the Minister give us any idea when that is likely to be? Will it be within the next fortnight, the next month, or the next three months?

The PRESIDENT: It is possible that we will be able to introduce it within a fortnight, but I cannot promise unless we get some sort of facilities such as were afforded last night. With the mass of business that we have to put before the Dáil, we will require longer sittings, and perhaps a greater number of sittings than we are having.

Mr. JOHNSON: May I point out to the President that it might be advantageous to adopt the policy that has

already been suggested, but hitherto not considered desirable—that is, to refer measures to Special Committees to consider them. That would probably facilitate the business of the Dáil. We could have two Committees going at the same time. Perhaps it could be arranged to introduce some of these measures into the Seanad, and let them get on with the work there as well as here?

The PRESIDENT: I have been considering that, and I brought the matter before the Executive Council yesterday. It is under consideration at the present moment.

RECONSTRUCTION AND DEVELOPMENT COMMISSION.

TOMAS Mac EOIN asked the Minister for Local Government whether the Government have yet given any consideration to the Interim Report of the Commission on Reconstruction and Development dealing with roads; whether it has yet been decided to take any action on the lines recommended in the Report; and if not, whether, in view of the urgency of the matter both in respect of the condition of roads and in respect of the need of relieving unemployment, that he can undertake that a decision will be arrived at speedily.

MINISTER for LOCAL GOVERNMENT (Mr. E. Blythe): The answer to the first part of the question is in the affirmative. The Deputy may feel assured that the present condition of the roads and the extent of existing unemployment are fully realised.

Any action on the lines of the Interim Report would necessarily be conditioned by the extent to which the large sums of money proposed for expenditure would be available. The Report is also being considered by the Minister for Finance.

Mr. JOHNSON: Can the Minister tell us when the Report, which was promised to be circulated, is likely to be circulated to Deputies?

Mr. BLYTHE: I am afraid I have nothing to do with that. The Reconstruction Committee acts under the Minister for Industry and Commerce, and a copy of the Report is forwarded to me. I do not think I have anything to do with the actual publication of it, and it is a matter for the Ministry of Industry and Com-

merce that the Report be sent to the Deputies.

Mr. JOHNSON: I realise that, but the President, as Minister for Finance, promised that it would be circulated—that copies of a paper which had, as a matter of fact, been printed would be circulated. It has not yet been circulated.

Mr. BLYTHE: I presume that will be done.

GOVERNMENT CONTRACTS.

SEUMAS O DOLAIN (for **Sean O Maolruadh**), asked the Minister for Industry and Commerce if he will state the money value in percentage of all contracts placed by the Government Contracts Committee since the 1st March, 1923—(a) within Saorstát Éireann; (b) without Saorstát Éireann; further, if the Minister will state whether there be any foundation for the rumour circulated by a letter in the Press that on order for 40,000 suits of clothing was being placed by the Government Purchasing Department outside Saorstát Éireann.

ASSISTANT MINISTER for INDUSTRY and COMMERCE (Mr. Whelehan): The contracts placed in the Saorstát for the period from the 1st March, 1923, to the 30th June, 1923, are of the total money value of 93 per cent. within the Saorstát and 7 per cent. without the Saorstát. With regard to the rumour to which the Deputy alludes, I am not aware that there is any foundation for the rumour mentioned. Perhaps, for the Deputy's fuller information, I may add that the returns from the 1st to 25th March are, for Saorstát goods, 85 per cent. of the total money value. From the 25th March to 31st May the Saorstát goods were 94.6 per cent. total money value. That is to say, that percentage of the goods were of Saorstát origin. From the 1st June to 30th June the total money value of the goods of Saorstát origin was 99.36 per cent. With regard to the rumour which appeared in the Press, I should like to add that, so far from the rumour having any foundation in fact, the fact is that tenders have been invited for 20,000 suits of clothing from manufacturers within the Saorstát, and those tenders are under consideration. That will show the Deputy how little he may be disturbed by rumours appearing in the Press.

Mr. JOHNSON: Will the Minister supplement that information by saying in regard to clothes, for instance, that the tenders that have been invited for clothes to be manufactured in the Saorstát will include that the cloth is also to be manufactured in the Saorstát; and when he speaks of Saorstát origin of contracts placed within the Saorstát, does that mean for goods mainly manufactured, or that a definite percentage of the final value has been created in the Saorstát?

Mr. WHELEHAN: Speaking of the 20,000 suits, I mean that the cloth of which the suits will be made will be of Saorstát origin, will be manufactured in the Saorstát. In every case, when I speak of goods of Saorstát origin, I mean that as far as possible these goods have been made from raw material produced within the Saorstát.

[WRITTEN ANSWERS.]

POSTAL FACILITIES IN ATHLONE.

SEAN O LAIDHIN asked the Postmaster-General whether he is aware of the delay in the delivery of the morning mail to the residents of Athlone; whether, in some cases, four hours have elapsed from the time of the arrival of the mails, at 9.15 a.m., until delivery, and to ask that delivery be expedited.

POSTMASTER-GENERAL (Mr. J. J. Walsh): The first delivery in Athlone commences at 7 a.m. and the second delivery at 11 a.m. The second delivery in most parts of the town is completed at 1 p.m., and as the return mail is not despatched until after 4 p.m., there is ample time for reply.

The service afforded is satisfactory and compares favourably with the Postal arrangements of other towns like Athlone. It may be possible to commence the second delivery slightly earlier, and I will look into this.

THREATENED PORT STRIKE IN DUBLIN.

Mr. ALFRED BYRNE: Before we go into the ordinary business of the day, might I be permitted to ask the Minister for Industry and Commerce whether it is, or was, the Government's intention to continue to bring about a settlement of the trouble at the Dublin Ports, or whether it means that a deadlock has arrived that will mean the closing down of the Dublin Ports on Monday?

Mr. WHELEHAN: Yesterday a conference, which lasted for several hours, took place in the Ministry. I regret that at that conference the parties failed to come to an agreement. Before leaving, both parties were assured that the best services of the Ministry would be at their disposal whenever they would feel that they might be helpful. The Ministry will certainly use its very best endeavours to see that the dispute in question is settled with as little delay as possible. As we wish to be helpful, I think that that is about as far as I can make any statement at the present moment.

[DAIL IN COMMITTEE.]

PUBLIC SAFETY (EMERGENCY POWERS) BILL, 1923—THIRD STAGE RESUMED.

SECTION 5—Continued.

Mr. DUGGAN: I beg to move amendment 56: "To add at the end of the Section a new Sub-Section, as follows:—

"This Section shall not apply to any offence committed before the passing of this Act."

Mr. GAVAN DUFFY: I desire to say that I think this amendment is much better drafted than the next one, and I quite accept it.

Mr. JOHNSON: I was hopeful that we would have had from the Minister in charge of the Bill a statement that he was prepared to accept this amendment, because I would respectfully commend it to the Dáil. I hope I am not wrong in reading it as, in effect, an Amnesty Bill.

MINISTER for HOME AFFAIRS: (Mr. O'Higgins): This amendment was, of course, accepted.

Mr. JOHNSON: I think it makes of the Bill an Amnesty Bill in so far as Section 5 is concerned, and in so far as any persons at present in the custody of the military authorities, or any person who may be charged with offences which might have brought him into the custody of the military authorities, is concerned. The effect of the amendment, as I understand it, is that any person who may have been guilty in the past of any of these many offences, can be brought before the Court and tried for those offences. The Minister shakes his head, and indicates that is not the effect of the amendment.

Mr. O'HIGGINS: They will be tried of course, under the law as it existed previous to the passing of this Act. It is not an amnesty for crime committed up to the date of this Act, even for the crimes mentioned in the Schedule of this Act. The amendment, of course, is accepted.

Mr. JOHNSON: I am glad to hear the amendment is accepted. Then are we to understand there will, for six months, be two codes in existence? I would rather gather that for that period of six months this Bill when it becomes an Act will be the operative law.

Mr. O'HIGGINS: This Bill will be the effective law with regard to crimes mentioned in its Schedule and committed after the date on which it becomes law.

Mr. JOHNSON: Then I understand from the Minister that as from the date of the passing of this Act, we shall have two codes in existence for a period of six months. Any person who may have committed an offence which comes within Part 2 of the Schedule before the date of the passing of the Act will be triable by the Courts which have hitherto operated, or under the code that has hitherto been in operation, and any person who may commit any of these offences subsequent to the passing of the Act will be liable to the new penalties. The amnesty does not go so far as I had thought.

Mr. O'HIGGINS: It is not an amnesty.

Mr. JOHNSON: Nevertheless, the amendment will, I think, have some of the effect of an amnesty, and I think to the extent that it does relieve the persons who may be found guilty of any of these offences in the future, it is worthy of acceptance, and I am glad the Minister has accepted it. I would like much more to have heard him say it did have the effect of relieving those who have been in internment for some time of the risk that they may, at some future date, be brought before a Court and tried. I think that having had a person for two or three months in imprisonment, without trial, it would be reasonable to say that that internment would satisfy the needs of justice and the needs of such protection, without holding over those untried prisoners the possibility that they may be at some future date tried

for an offence which they have committed twelve months ago. I am sorry that interpretation is not found fitting, but for the benefit that the amendment does bring, we have to be thankful.

Amendment put and agreed to.

Amendment:—To add at the end of the section a new sub-section as follows:

“No part of this section shall be interpreted retrospectively, so as to authorise, in the case of an offence committed before the passing of this Act, the infliction of a penalty or sentence which could not lawfully have been inflicted by a District Justice for such offence at the time when the offence was committed.”—(Seoirse Ghabháin Uí Dhubhthaigh.) Not moved.

Motion made and question put: “That Section 5, as amended, stand part of the Bill.”

Mr. JOHNSON: On this motion you ruled that it was not competent for us to discuss the merits, if there are any, of flogging, and I do not wish to contravene that ruling. I want to record a word of protest generally against Section 5 as a whole. It introduces new penalties of a very much more severe character than anything that has been known for offences of a large range. The death penalty or penal servitude referred to for the offences mentioned in Part 1 of the Act includes, as we have already tried to show, the death penalty for comparatively minor offences, even though the offences may be in furtherance of an armed revolt. The liberty that is given to a Court to sentence to death is too great, and it is, as a matter of fact, an invitation to one Court to sentence to death for a comparatively trivial offence, while another Court may offer very much milder penalties. Now, to incur the death penalty I have always thought that the intention was to make punishment follow certain crimes as certainly as the law could make it; but here we are asked to legislate in a way which leaves the death penalty covering a very wide range of offences, and leaves a very large element of gamble as to which Court and which Judge a person may have the good or ill fortune to be brought before. The other penalties that are imposed in the later sections, though I gladly acknowledge there have been some

modification as compared with the original terroristic threats, are still excessive, and the method of punishment is the kind which ought not to find expression in an Act of this Legislature. There is no need to go into details. The matter has been fairly discussed, I think, and not extravagantly discussed. We would like to have had more assistance from Deputies in the discussion and consideration of these various penalties, but it does not seem fitting to the majority of Deputies that they should be considered and discussed. Nevertheless, we have done our best to find out what the penalties involve, and why they should be imposed for these various offences. Notwithstanding the improvements or the amendments that have been made in the section as originally submitted, the section is not one that the Dáil should accept, and I would ask the Dáil to vote against the acceptance of it.

Mr. O'CONNELL: My great difficulty with regard to this section is that I have not been convinced, and nothing that has been stated on the other side has convinced me, of the necessity for the introduction and the inclusion of a section of this kind in the Bill. This section is the backbone of the Bill. To justify the Government in coming to Parliament and asking for the extraordinary powers that are in this section, makes it appear that the country is at the present moment in a very bad state indeed, so far as these particular crimes which are specified in the Schedule are concerned. To outsiders who do not know the country, and who have not travelled in the country, I am quite sure the impression is conveyed that it is absolutely unsafe to travel in the country, or for any person to go about his ordinary business. Are these the facts? It may be that Ministers have knowledge that the ordinary man in the street has not an opportunity of obtaining; but crimes of arson and robbery under arms do not happen usually without being reported in the Press. To an ordinary observer who took up the daily Press during the last two months it would not appear that the wave of crime which has been referred to, and on account of which the special powers in this section are asked, is such as to warrant the introduction of these special powers. Reference has been made repeatedly to the condition of things in this

[Mr. O'Connell.] country for the last eight or ten months. They were bad—as bad as they could be; but the effect is that these crimes were regarded, rightly or wrongly—wrongly, in our opinion, undoubtedly—by those who were engaged in them, only as a method of carrying on a system of warfare. We do not agree with that. None of us in the Dáil agrees with it. But we cannot get behind the fact that they in their blindness—if you like to put it that way—did believe that the campaign of destruction and burning and robbery under arms was a method of carrying on a so-called war. The facts are that two or three months ago these people who are responsible for this campaign felt that the game was not worth the candle any longer—

Professor MacNEILL: Torch.

Mr. O'CONNELL:—and we are getting back to ordinary normal times. I hold that we should wait until we are convinced that what is feared or anticipated in this measure is actually in existence. Anyone who travels through the country knows that the existence of crime of this nature is rather rare in comparison with even such a law-abiding country as England. If you compare the Press reports of crime in Ireland and in England within the last two months, you will find that there is nothing to show that the condition of affairs here is of such an extraordinary character that these special powers are necessary to deal with it. I think that before these powers should be sought and before the impression which their introduction is bound to create outside the Saorstát is created, we should be satisfied that the ordinary law, in addition to the powers which the military have and always will have, should be sufficient to deal with the state of things as they exist.

Mr. LYONS: There is one consolation in connection with this section, and that is that men interned before the passing of this Act shall not receive the punishment specified under it. I would like to know if that also includes that portion indicating that any person found guilty of any offence mentioned in Part 1 of the Schedule shall be liable to suffer the death penalty? Surely there are quite enough death penalties, quite enough executions? I hope it will be no longer

required that any officer, any Minister for Defence, or any Minister of the Government, shall sanction any further executions. If the amendment that has been accepted also applies to that portion of Section 5, then I think an improvement has been brought about. I am sure the Minister fully realises that the time has passed when very drastic measures were really necessary. Is it suggested that men interned at the present moment may be tried in six months from now and sentenced to death?

Mr. O'HIGGINS: Not under this Bill.

Mr. LYONS: I am very pleased to hear the Minister explain that that is not so under this Bill. I will now deal with the question of penal servitude.

You have men in prison for ten months who are not tried, and I am sure you will have power under this Bill to manufacture or frame a charge against them. You will have power under this Bill to put them on trial and sentence them to penal servitude.

AN CEANN COMHAIRLE: Not under this Bill.

Mr. LYONS: That, at least, is a comfort, that the men interned at present will not suffer anything under this Bill. They cannot be tried under this Bill, and they will not be tried under it. I am sure it is the opinion of every Deputy in the Dáil that before the expiration of the time allotted for this Bill—six months hence—that the Saorstát will be united and every man who is in prison at the present time will be released. I do not at all approve of the Section, but I was pleased to hear that one or two objections to this particular Clause have been removed by the amendment that has been accepted. But if you find a man with a revolver, a land mine, or a few cartridges in his house, I would like to know if all the evidence brought against that man is to be published in the Press. I have objected strongly from the time this Bill was introduced to its provisions, but I would like the members of the Dáil to register their votes more particularly against this Section number 5.

CATHAL O'SHANNON: A Chinn-Comhairle, in supporting the request of other Deputies that this Section be deleted from the Bill, I would like to ask the Ministry to state once and for

all—they have not stated it up to the present, at least in a way that is convincing to me—why exactly the measures and the provisions in the Bill are necessary at this particular moment? The President has addressed people of Irish birth and descent in Australia indicating that, to his mind at all events, there has been a very considerable improvement in the position in Ireland. The Publicity Department of the Government has, on various occasions, issued statements to much the same effect. Now those statements both of the President and of the Publicity and some other Departments, and statements not directly coming from the Government, but from publicity sources strongly supporting the Government, coincide with the experiences and with the general view of a good number of the Deputies in the Dáil. Without any shadow of doubt whatever, the internal situation in Ireland is much better, much more satisfactory, and much more rational than it was three or four months ago. To many of us it seems that that improved situation is really a sign and a promise that there is a return to a certain degree to ordinary and normal life in Ireland. But in spite of all that under this particular Section of the Bill the Ministry seek extraordinary powers and asks for extraordinary penalties. It asks the Dáil to sanction measures, penalties and provisions not covered by the existing laws. To me, at all events, it is extraordinary that if those penalties and those measures are necessary now they were not necessary within the last twelve months when certain other extraordinary measures were asked for and granted by a majority of the Dáil. But no reason has been given by the Ministry except the expression of the fear that there may be a renewal of the troubles of the last twelve months. That fear does not seem to me to be sufficient to justify all that is asked for under Section 5. On the contrary, I think that the hopes of the Ministry, and the hopes of the people in general, would be brought nearer realisation if the Ministry showed in letter, as well as in spirit, that it was willing to help in the return to the normal. There was talk this morning of a certain disease in the body politic. It was described as a mental disease. Now I feel that for such a disease and for any mental disease of a similar character that the true and

the real remedy is not so much physical punishment as an attempt not only at understanding but an attempt to remove any remaining causes that help to extend such disease, and I suggest that Section 5 of the Bill is not an attempt in that direction, but that its effect is likely to be in the contrary direction, that it is more likely to act as an irritant than as a solvent.

Professor MacNEILL: I am glad you agree with the diagnosis, at all events.

CATHAL O'SHANNON: I certainly agree that it is a disease, but I deny that a proper way to treat a disease of the mind is to perform an operation on the body. Deputy O'Connell has referred to what is not a remote origin of the disease. The President, if I may say so, suggested this morning that it was not possible either to excuse or to understand certain things in Ireland now. I beg to differ with him in that, not that I would say that it is possible to excuse, but I do hold that it is possible to understand. Deputy O'Connell, rightly I think, suggested one way of understanding it. It would be utterly and completely wrong, in my opinion, to date the origin of certain irregular activities from December 6th, 1921, or from April, May or June of 1922.

One of the biggest errors that I think the Executive Council has made is to think that the preaching and practices of the last five or six years would have no influence after the Treaty. I refer in particular to two of the offences defined for punishment under this Section, and I put it to the Dáil and to the Executive Council in this way. No matter what the popular sanction, you had arson in the campaign against the British occupation in Ireland. What bearing, in spite of the popular sanction behind it—and there was very considerable popular sanction behind it—had the holding up and the seizure for certain national purposes, by force of arms, of certain moneys before the Treaty came? It may be said, as it was said on another occasion, that these things had not the direct sanction of the national legislature of the time, but in spite of that we all know that they had not only the direct sanction but, in many instances, they had the direct command of the particular active arm of the nation, which was as much, if not more, than any other arm

[Cathal O'Shannon.]
of the nation responsible for the setting up of the Saorstát.

AN CEANN COMHAIRLE: I am afraid the Deputy is going on too long and back too far.

CATHAL O'SHANNON: I may be going on too long. If I am, I bow to your ruling.

AN CEANN COMHAIRLE: I will let the Deputy continue, because I am interested to find the connection between what he is discussing and the Section. He may continue his speech, if he is going to make it.

CATHAL O'SHANNON: The connection, A Chinn-Comhairle, is this, that it is not possible, in my opinion, whatever may be the opinion of the Executive Council, to have certain activities of that kind carried on under considerable popular and national sanction without having effect on a later period. I submit, with all due respect to the opinions of the supporters of the Executive Council, that that has had its effect upon later events, and that there are men who, by

the laws of the State, have become criminals, not because they were of criminal intent, and only partly because they were opponents of the Saorstát, but because they had the example and the history of certain acts before them. I should be the last in the world to condemn the acts I mention, but I do say that they go some distance to explain the mentality behind some of the acts of the last twelve months, and that in that sense it is possible to come to some understanding. I say they have been aggravated by deliberate incitement, but even deliberate incitement would not have produced all the things that have happened had there not been a revolutionary background. Many activities which, while legitimate enough from a revolutionary point of view in a revolutionary period, are anything but legitimate and anything but legal when the revolutionary period has passed. For that reason I think that the Section shows a misunderstanding of the whole present situation.

Question put: "That Section 5, as amended, stand part of the Bill."

The Dáil divided: Tá, 29; Níl, 13.

Tá.

Liam T. Mac Cosgair.
Donchadh Ó Guaire.
Micheál Ó hAonghusa.
Domhnall Ó Mocháin.
Pádraig Mac Ualghairg.
Doasmhughain Mac Góráil.
Seán Ó Ruanaidh.
Micheál de Duram.
Ristoárd Ó Maolchatha.
Domhnall Mac Cárthaigh.
Sir Séamus Craig.
Gearóid Mac Giobúin.
Liam Thrift.
Eoin Mac Néill.
Liam Mac Aonghusa.

Pádraig Ó hÓgáin.
Pádraic Ó Máille.
Seosamh Ó Faoileacháin.
Seoirse Mac Niocaill.
Séamus Ó Cruadhlaoich.
Cristóir Ó Broin.
Caoimhghin Ó hUigin.
Proinsias Bulfin.
Séamus Ó Dólaín.
Peadar Ó hAodha.
Liam Mac Sioghaird.
Tomás Ó Domhnaill.
Earnán de Blaghd.
Uinseann de Faoite.

Níl.

Tomás de Nógla.
Riobárd Ó Deaghaidh.
Liam de Róiste.
Darghal Fíges.
Tomas Mac Eoin.
Seoirse Ghabháin Uí Dhubhthaigh.
Liam Ó Briain.

Tomás Ó Conaill.
Aodh Ó Cúlacháin.
Séamus Eabhróid.
Soán Ó Laidhin.
Cathal Ó Seandáin.
Domhnall Ó Muirgheasa.

Motion declared carried.

SECTION 6.

(1) It shall be lawful for an Executive Minister to order the seizure of any cattle and other animals found trespassing on land belonging to any Board or Department of the Government or to any private person or body, and the re-

moval and detention of such cattle and other animals to and in any place within or outside Saorstát Éireann.

(2) Whenever any cattle or other animals are seized under this section, such notice as the Minister aforesaid shall prescribe shall be given to the owner

thereof, and such owner may, within such time as the Minister shall prescribe, redeem such cattle and other animals by payment to the Minister of such sum as the Minister shall estimate to be the fair value of such cattle and animals, or such lesser sum as the Minister shall think proper: Provided always that if such owner shall satisfy the Minister that the trespass by such cattle or other animals was accidental or took place against the will of such owner or was otherwise innocent, the Minister may return such cattle and animals to such owner.

(3) All cattle and other animals seized under this section and not so redeemed or returned shall be sold in such manner and at such place whether within or outside Saorstát Éireann as the Minister shall direct.

(4) The money paid for the redemption or the proceeds of the sale of any cattle or other animals redeemed or sold under this section shall be applied in the first place in or towards the payment of the expenses of the seizure, removal, detention and sale of such cattle and other animals, and in the next place in or towards the payment to the owner of the land on which such cattle and other animals were found trespassing of such compensation as the Minister shall direct for the damage caused by such trespass. and the surplus (if any) of such moneys or proceeds shall be forfeited and paid into such special account in such bank as the Minister for Finance shall from time to time direct.

CATHAL O'SHANNON: I beg to move to insert after Sub-section (1) a new sub-section. Section 6 deals with powers to seize and sell animals found trespassing. Sub-section (1) reads—(sub-section quoted). The new sub-section which I am moving reads:—

“Before any cattle or other animals are seized under this section notice of the intended seizure shall be given to the owner thereof, so that he may discontinue the trespass; but such notice need not be given on the occasion of a second or other later wilful trespass.”

I should say that the necessity for this new sub-section arises, like many other things, out of the circumstances of the revolutionary period through which we have passed. In that period many and

various weapons were used, and in my opinion rightly used, by what, without any disrespect, I may describe as the revolutionary forces.

Certain conceptions of the status, position and standing of what the President sometimes describes as certain orders in Ireland were held by the National Forces, and by the people supporting the National Forces. I think it is true to state that one of the instruments used with popular, if not national or legislative, sanction was the adaptation of certain measures, which at various times have been taken by the body of the people, or an agrarian portion of the body of the people in Ireland.

To my knowledge, and to the knowledge of many Deputies, force was used on the national side for the purpose of seizing, maybe only for a temporary purpose, and maybe only for tactical reasons, certain lands in the possession of people belonging to certain orders, and for the driving off of cattle on certain lands which locally were considered as not being put to the best use in the national interest. Because that practice had more or less become common, and because a common practice like that is not easily departed from, we have found, since a national Government was established, that in some parts of the country, quite wrongly, there have been repetitions, illegitimate and unlawful repetitions, of the kind of measures I have just spoken of. Since the establishment of the national Government, with legitimate national authority, such measures have become quite unlawful and illegitimate. I put it to the Deputies that it is not at all easy—as a matter of fact it is extremely difficult—for any community to make a sudden break with the practices of the recent past. Sub-section 1 gives power to the Ministry to order the seizure, removal and detention of cattle trespassing on certain lands. With that at the moment I am not going to quarrel, but I think that sufficient provision is not made in the Sub-section to make it satisfactory, and it is necessary to do something more.

The amendment or new sub-section I propose asks that where it is found necessary to make a seizure of these cattle due notice—I do not mean the giving of notice at an undue length of time before the seizure—should be given to the owners of the cattle, so that if they are

[Cathal O'Shannon.]

not quite aware that they are committing an offence or about to commit an offence that they might be brought to a realisation of the real position, and to the fact that they are committing an offence in the shape of a trespass. I think it is only fair and reasonable that such notice should be given, because instances have occurred where cattle belonging to a certain citizen have trespassed on lands on which they ought not to have trespassed, but they did not trespass in such a way as really to constitute an offence or a crime within the knowledge of the owner of those cattle. Now, a thing like that, I freely admit, cannot happen twice, and for that reason I do not ask that such notice should be given to the owner of trespassing cattle a second time. I would only give the notice on the first occasion. We had an instance of this in a question put in the Dáil some weeks ago, where the owner of certain cattle had his cattle seized. That owner was not, in fact, of the belief that his cattle were trespassing. He was, indeed, paying rent for the land on which his cattle were trespassing. It so happened that the person or persons to whom he was paying rent had no right to receive the rent, because the land, so far as our knowledge goes, had been seized by them. But the cattle were seized on these lands. It was a *bona fide* transaction on the part of the owner of the trespassing cattle.

MINISTER for AGRICULTURE (Mr. Hogan): Would the Deputy give particulars of that case?

CATHAL O'SHANNON: At the moment I have not the date, but the Minister may remember that it was raised in a question put by Deputy Lyons. I do not remember the exact date of the case.

Mr. LYONS: There are two such cases—one a case in Castletown, Westmeath, and another a case in Ballymore, Westmeath.

CATHAL O'SHANNON: That, I think, was a *bona fide* transaction on the part of the owner of the cattle. It was to cover such cases that I put the amendment. No such case of trespass should, as I say, occur a second time. One warning ought to be quite enough, but I suggest that they should be given some warning.

Mr. O'HIGGINS: Would the Deputy not consider the passage of the Bill a sufficient warning?

CATHAL O'SHANNON: The Minister asked me if I would consider that the passage of the Bill would be a sufficient warning. No, I do not consider the passage of the Bill a sufficient warning. A man, even if he purchased the Bill and studied its provisions, might still think that he was outside its provisions. Certainly I think that the persons to whom I refer would consider that they were outside its provisions, because they had no knowledge that the lands on which their cattle trespassed were lands that had been wrongfully and illegally seized by the person to whom they paid rent. Furthermore, no matter how widely distributed a Bill or Act may be, and no matter how many of its provisions may be published publicly in the Press, in many of the rural parts of Ireland we know that the chance of some of the most material provisions of that Act reaching that countryside are not very great for one reason or another. For that reason I cannot agree that the enactment of the Bill would be a sufficient warning. I think that there ought to be some further warning. Mind, I do not mean that where there is a really good case against the trespasser who had wilfully or deliberately, and with full knowledge, trespassed, there should be a great deal of consideration. I am more concerned with those who more or less out of ignorance, or more or less out of sticking to certain practices of the past, have more or less unconsciously been guilty of an offence. I think in reason and in fairness, if not in strict legal justice, that there should be some warning, but that there should be no second warning. I beg to move the addition of this new sub-section after Sub-section (1) of Section 6.

Mr. GEORGE NICHOLLS: I would like to say, as representing a typical agricultural constituency, that the Deputy who has last spoken has made me very wide awake. I represent the County of Galway. I know that people there have gone in and seized and commandeered lands, utilised them for their own benefit, and we are led now to believe, from what the last Deputy has said, that they have been acting in

ignorance. We are told that they do not know that the land is not their own. They have gone into these lands and they had no right to go into them. I think it is about time that there should be an end put to that humbug. When land is seized everybody who is trespassing on it knows that that land is not his own, and if people go into land to which they have no right, they have to put up with the consequences. I represent now a very typical constituency, the County of Galway, and I know that there has been forcible seizure of land all over the County, North, South, East and West—the four old divisions, as it was originally divided into four constituencies.

Mr. JOHNSON: On a point of Order, this amendment or Sub-section does not deal with the seizure of land. It is with cattle trespassing that it deals, and I submit they are not the same thing.

AN CEANN COMHAIRLE: The trespass of cattle and the seizure of land are quite different.

Mr. LYONS: I wish to support this amendment, because I am well acquainted with several cases where people lost cattle through having them on land, grazing them. One particular case, that Deputy O'Shannon mentioned a moment ago, occurred in Westmeath. There had been an agreement. I am informed, signed by the proposed owner on one side and the original owner on the other side.

Mr. HOGAN: Name the case.

Mr. LYONS: Mrs Crosbie of Kilbeggan.

Mr. HOGAN: I am merely suggesting that particulars of individual cases should be given to identify the case, and not reference to the cases vaguely, so that nobody would understand to what cases they refer.

Mr. LYONS: If the Minister for Agriculture wants the case fully explained, I think I should detain the Dáil for an hour and a half going fully into it.

Mr. HOGAN: I merely want the name of the party.

Mr. LYONS: The names of the parties are: Mrs. Crosbie, the supposed owner, and Mrs. Keegan on the other side. The military arrested the two young Crosbies, and they are still in custody. In

this particular case the people who had the cattle grazing on the land were of opinion that the parties to whom they were paying rent were the proper owners. If such an amendment as this was accepted, naturally those people would be notified, and then, if they continued trespassing, well, I certainly would have no sympathy with them at all, even if every bit of horned stock they had was seized. It is a very bad policy not to give them notice. I know one case of a labouring man who, by the fruits of his labour, succeeded in buying one beast, and through pure economy he was going along the road to success. He was a labouring man, living in a cottage, and by his industry he succeeded in buying three cows. That man's name is O'Gorman, of Castletown.

AN CEANN COMHAIRLE: Is he in possession of the cattle?

Mr. LYONS: Those cattle were seized by the military, and I am speaking to this amendment.

AN CEANN COMHAIRLE: Were they seized because they were found trespassing?

Mr. LYONS: Yes.

AN CEANN COMHAIRLE: I thought they were found on the man's land?

Mr. LYONS: The labouring man was not lucky enough to possess land, but had a "take" on the eleven months system for which he was paying. He thought at the same time that he was paying the right owner. He was not notified that he was committing a crime against the laws of the land, and, of course, his three little cattle were there on the land, and naturally the soldiers came down and made a clean sweep and took everything that was on the land away with them. I have already sent the details of that case briefly to the President, as it was the President answered the question for me when I raised it in the Dáil. I quite forget the date at the moment. Indeed, now I am sure we can certainly ask the support of the Farmers' Party on this amendment, but I see just now that they are only a party of one. As they have not been here all night, naturally they are not so tired that they will not be able to come in and say "Tá" to this amendment. It really is an amendment

[Mr. Lyons.] that will do some of the people that they represent justice. I hold that there is no justice in going to a farm and seizing the cattle on this farm, not knowing whether all the cattle seized belonged to the person who had the farm or who had taken the farm by force or had got it by agreement.

Now that is, of course, the idea that Deputy Cathal O'Shannon had when he put forward this amendment. Throughout the country there are many very poor people, who may possess a cow. In one particular place in Edge worthstown, in Longford, there is a poor man living in a cottage and he possessed a cow. That cow was also found trespassing. I am not disputing the fact that that man did not know—as the land was in the possession of a family for a number of years—that he was paying the right person, but that cow was taken, and that deprived the man's family of milk and butter. We come now to Ballymo, and there the same tactics were adopted by the Minister for Defence and the Minister for Agriculture. Will you be giving power to the Minister for Home Affairs to go further? I am sure it has happened before now that even a goat that was rambling was also taken—

Mr. JOHNSON: By a peeler.

Mr. LYONS: No, not in this case, it was taken by the soldiers. Whether the Minister for Defence wanted to feed the Army on goat's milk I do not know. It would probably be stronger for them. I do want to see this amendment added to Sub-section (1) of Section 6, so that the poor man will get an opportunity of knowing who is the owner of the land on which he puts his cow to graze. Certainly I have not much sympathy for the farmer who may possess two or three hundred acres of land, and who comes along and says to himself, "My great grand-aunt lived in this place and this place belongs to me," and who then goes along and takes possession with the help of some people whom he may get into his clutches to help him in doing that. I have no sympathy with a man like that—

Mr. O'HIGGINS: Hear, hear.

Mr. LYONS:—but I do want to try to safeguard, to the best of my ability, the

poor man who is solely dependent upon a beast or two, probably to pay his debts or to pay his half-year's rent. It is a very old custom throughout the country.

Mr. HUGHES: Very.

Mr. LYONS: It is a very old custom that from one fair day to another that a particular man or woman, in some cases a widow who may have a small family, are solely dependent upon that beast or whatever little cattle they have. They may have no land of their own, and they have to get grass for them. The military come along, if that land is in dispute, and take these cattle along with the rest. They take all the horned stock that are there. I am sure such animals as do not wear horns at all will be carried off by the military if they can lay their hands on them.

Mr. HOGAN: They have even taken pollies.

Mr. LYONS: I want the Farmers' Party to support this amendment. They did an awful lot of talking, when the Land Bill was on, against the seizure of cattle. Now I want them to come here and to prove that they are really against the seizure of cattle by the military or by the Minister for Home Affairs, or whoever may be in that office when this Act comes into force. It is really a very awkward thing for any poor man living in the heart of the country that, even if he himself was in the dispute with the landlord and that his father was originally the owner of the holding, that the cattle of such a man should be seized. I know of cases where the landlord from which such men hold at present are in the possession of land from which that man's grandfather or father was evicted.

Mr. NICHOLLS: On a point of order, is the Deputy now in order? He is dealing with the question of grabbing farms, and not with cattle trespassing.

AN CEANN COMHAIRLE: The Deputy is out of order.

Mr. LYONS: This amendment does exactly what I would have done myself. I would have inserted in the Bill, if I had the power, a clause which would do what this amendment wants done. I will be greatly surprised if a vote is challenged on

this amendment. Is it possible that the Minister for Home Affairs is so much against the farming class that he will say to the Dáil that he will not accept this amendment? I would be surprised if the Deputies, the majority of whom are farmers, vote against this amendment. There are no farmers on these benches here, and I would ask the Deputies to do something for the people who sent them here. There are more small farmers in the country—

AN CEANN COMHAIRLE: The Deputy has exceeded his time.

Mr. JOHNSON: I am really astonished that the Minister has allowed the time of the Dáil to be spent in discussion of this amendment, because I am sure he is going to accept it. It is hardly reasonable to ask the Dáil to have a long discussion without any speech from him explaining that he is going to accept the amendment. I want to put before him an entirely different aspect of the case from that which has already been touched upon. Section 1, which it is sought to amend, reads (Section quoted). There are different roads which belong to public bodies, and under this section, unless it is amended, it would be lawful for an Executive Minister to order a seizure of any horse, donkey, or goat that was grazing on the public roadside. Apart from any question of entering into a field, a horse grazing on the roadside could be seized under that sub-section without notice. I know that is not the intention of the Minister, but he is asking us to give him power to do that without notice. I think it was Mr. John Leonard who gave evidence before the Agricultural Commission some time ago and explained that, owing to the high cost of railway transit, he, for one, had developed a practice of sending his cattle to market along the roads. It would take two or three days to do this, and he said that this was a custom likely to be revived, and that instead of transporting cattle to market by rail, they would be driven along the roads. He said it would pay to travel the roads any distance, says 30 miles—

Mr. O'HIGGINS: Will the Deputy allow me to say that there is no property in the roads in the local authorities. The care of the roads is entrusted to certain local authorities.

Mr. JOHNSON: "All land belonging

to." It may be that the roads are not property, and that there are no patches abutting on the roads that are property, but I think it will be admitted that within the limits of that sub-section it would be possible for the Minister to order without notice the seizure of animals—cattle, horses, goats, or any other stock—that may be looking for fodder. It is surely not an unreasonable suggestion to say that where it is known to any police officer, military officer, or any other person who is given charge of the peace of a district that cattle are trespassing, an intimation to that effect should be given before those cattle are seized. It may be only one hour's notice, if they can reach the person owning the cattle. It may be notice put up on a gate; but due notice, surely, ought to be given to a man before his cattle are seized for an offence of this kind. To swoop down, on an assumption of guilty knowledge, is not reasonable. I submit that the proposition that some notice should be given to a man before you take his cattle and sell them is the least a Minister should be asked to do. The Minister will say, of course, that it is not his intention to do these things; "we are going to be assured of the facts of the case before we order that cattle shall be seized." I have no doubt that that is his intention. But there are always risks when you give power to people in Acts of Parliament to do things that should not be done. There is always a risk that they may do those things, and the proposition in the amendment is surely a very mild one, and not at all unreasonable. Is there any Deputy to say—for instance, my colleague in the representation of County Dublin, Deputy Rooney—that it is an unreasonable thing to ask that the owner of cattle shall be informed beforehand that his cattle are trespassing, and that if he does not remove them within one hour they will be taken? Is that an unreasonable request?

Mr. ROONEY: In normal times I think they should get notice.

Mr. JOHNSON: We are, on the authority of Ministers, entering into normal times. It is hoped that normality will have been reached before the end of six months—we hope before the end of one month—and notice ought to be given it is admitted in normal times. I submit that notice ought to be given at

[Mr. Johnson.] any time before officers of the State, under direction of the Minister, enter upon a proceeding of this kind. I would quite honestly and sincerely ask the Minister either to accept this amendment or to give some reasonable explanation as to why it is impossible to give some notice before cattle are forcibly seized.

Mr. O'HIGGINS: I want to put briefly the considerations which render acceptance of this amendment undesirable and impossible. The amendment practically amounts to this, that deliberate trespassers have a free fling until they receive notice that they are not to repeat the offence. Now, as to the practical difficulty of the amendment—supposing for a moment that I were to accept it—it is that nobody owns the cattle until they are seized. It is like hens trespassing in corn. They are freelance hens until they are caught in a trap or there is an accident with a dog, or something of that kind, and then the owner comes to the surface. I have some knowledge of these cases, stretching back for the last six or seven months, and I know that it would be a task beyond the wit of man to establish the ownership of cattle grazing in this way until the cattle are seized. Sometimes they are sent from a distance. A middleman grew up in this kind of business—a man who says: "I will keep that land clear of all stock except yours for so much a week or so much a month." A regular traffic and vested interests grew up around this kind of thing. Arrangements are frequently made that cattle are sent ten or twelve or fifteen miles to land that has been confiscated in this way. The passage of the Bill must be taken as the notice by all. People will have to learn to keep their stock on their own land. I do not agree for a moment that a person is entitled to enter into a bargain to put his cattle on certain land without taking very thorough steps to find out whether the person making that offer had any right to make it. That is something fundamental to all business transactions. You do not buy from a person without finding whether he has a right to sell, and you do not rent from a person without finding whether he has a right to let. If mistakes are made in this kind of transaction, the person who makes them has to take the consequences.

I direct attention to the provisions of

the Section. Deputies will say that in one case in a thousand a mistake could be made, that a man might be innocently deceived into believing that the person who asked him to put his cattle on certain lands at so much per month had the right to let those lands. In Sub-section 2 you have this proviso: "Provided always that if such owner shall satisfy the Minister that the trespass by such cattle, or other animals, was accidental, or took place against the will of such owner, or was otherwise innocent"—surely that is broad enough—"the Minister may return such cattle and animals to such owner." I propose accepting Amendment 59 and Amendment 60. I think that ought to meet any reasonable case that there is or that has been put forward by those urging the acceptance of the particular amendment under consideration. Men must keep their stock on their own lands, and if a man has the misfortune to be possessed of what is called in the country a "rogue" cow, that no fences will stop, and that insists on trespassing, then he will never get any satisfaction with that animal, and the best thing he can do is to sell it. It will get him into trouble sooner or later. The Minister for Agriculture tells me that there might be some excuse for a yearling, but that a cow is old enough to know better.

The experience of recent months has made it absolutely necessary to meet this problem otherwise than by treating it as mere casual, accidental trespass or by leaving it to the injured party to bring a case before a Court of Summary Jurisdiction. It is more than a challenge to the rights of a particular owner. It is something that strikes at all stability and all security in the country, and if not checked would result in damage to credit and security throughout the country. We have to strike in this legislation the note that was struck long, long ago, "Woe to him who removeth his neighbour's landmark."

Mr. O'CONNELL: To come back to the particular amendment before the Dáil, I wish to point out that the only reasons put up by the Minister for refusing to accept this amendment, which provides for giving notice, is the difficulty of finding the owner. That is the only reason.

Mr. O'HIGGINS: I did also put up the

reason that it is not a sound thing or a proper thing that we should say, as in effect this amendment says to people, that they can go ahead for once—that they can go ahead until they get notice that they are not to go ahead.

Mr. O'CONNELL: The difficulty with regard to finding the owner need not worry him. It is possible to give notice without actually serving that notice on the actual owner of the stock. There is nothing to prevent him, for instance, if a complaint has been made that lands are being unlawfully trespassed upon, putting notice on the gates of these lands or putting notice on the nearest Civic Guard barrack, or having a notice put in the newspapers to the effect that cattle found trespassing on these lands will be seized by the military.

Mr. O'HIGGINS: Then we will meet people who did not see the notice.

Mr. O'CONNELL: My suggestion would meet the purpose of the amendment.

Mr. O'HIGGINS: The notice was torn down or disfigured.

Mr. O'CONNELL: In any of these cases I presume it will be necessary that information should come to the Executive before action is ordered, unless, indeed, the proposal is that a general order will be issued to either Military or Civic Guard that where a complaint is made to them and where they are of opinion that trespass is taking place, they should go and seize the cattle themselves. That may be the machinery that will be set up, but I can see no reason for the Minister's objection to taking this amendment. I can see very many reasons indeed why the amendment should be accepted.

Mr. HOGAN: Even if there was no practical difficulty in the way of carrying out the terms of that amendment in practice I would be absolutely against it, and I am genuinely surprised that it is put up by the Labour Party. The amendment is intended to cover not only the very rare case of the man who is in possession of the land of another innocently, but the very numerous cases of persons who are in possession of other people's lands maliciously. I think there is no question about that. The amendment is drafted to cover both cases.

What does that mean? What is the principle behind that? It is an announcement that a man has the right to break the law once. It is exactly the same as if we were to set up a notice in Grafton Street: "No man shall steal a pound of tea more than once; no man shall take a motor car more than once." This is robbery; robbery of grass and produce, and what you are saying, in effect, in this notice is, "You are not to rob this man's grass more than once." This amendment is meant to cover not only the innocent, but the wilful trespass.

Mr. O'CONNELL: There are other remedies besides the seizure of stock.

Mr. HOGAN: I am aware of that, but this amendment is intended to cover not only innocent, but wilful trespass.

Mr. O'CONNELL: Drastic measures are taken.

Mr. HOGAN: I am not sure whether the amendment is intended to cover the innocent case at all—whether it is not intended to cover the wilful case exclusively, because it provided that notice be given the owner so that he may discontinue the trespass. In any event it is clearly intended to cover the wilful case. What does it amount to? It amounts to this, that in an Act of Parliament we are adopting the principle of saying to a possible wrongdoer: "You may steal once, but do not do it twice." I am genuinely surprised that Deputy Johnson has approved that amendment. The amendment is immoral. The principle is absolutely immoral and illegal, and I would not have it at any cost, even if the difficulties of administering it were removed.

Mr. JOHNSON: The Minister's surprise is astonishing. He suggests that the way to deal with an offender is to assume his guilty knowledge, take his property and sell it. I am assumed by the Minister for Agriculture—

Mr. HOGAN: On a point of order, I have not said that. I have not argued the question as to whether it is right or wrong to seize cattle. We can come to that later. That is not the issue at the moment. What I have stated is that the principle of that amendment is immoral. The principle of saying to a man, "You can commit an illegality with impunity once," is immoral.

Mr. JOHNSON: The Minister does not know what the section is dealing with. There is nothing in this amendment to suggest that you ought not to prosecute and imprison if necessary the man who sells another man's land or makes use of another man's land. There is no suggestion here of covering the offence. The suggestion here is that it is not the right way to deal with an offender by assuming his guilt and taking his cattle and selling them, without giving him any warning that he is assumed to be guilty. We are inviting you to prosecute the man. It is not yet the policy of the Government to take the various offences citizens are occasionally tempted to commit, and, without warning, go to their houses and take their property and send it to England to be sold. That is not yet suggested as a proposition to be put before the Dáil. The Minister is quite wrong in assuming that there is any suggestion here of condoning the offences that he assumes have been committed. We simply ask in this amendment that the offender shall be warned before you seize his cattle and take them away to sell. It does not prevent you immediately following that warning by prosecution for trespass. You may use all the forces of the law to deal with that offender, even if that amendment is accepted and embodied in the Act. There is nothing to prevent that being done. All we ask is that before seizing a man's cattle and selling them you shall give him an opportunity to take his cattle from the land of another on which you say he is trespassing. Prosecute him afterwards if you wish; bring him up before a Court for the offence of theft. But that is an entirely different proposition. You are then going to try a man for a definite offence against the law. In the other case you are simply

taking away his property without having proved any offence.

Mr. HOGAN: I am extremely glad to have that interpretation of this clause from the Deputy, but it was a little bit belated. It was needed, at all events. The amendment reads:— "Before any cattle or other animals are seized under this section, notice of the intended seizure shall be given to the owner thereof, so that he may discontinue the trespass; but such notice shall not be given on the occasion of a second or other later wilful trespass." Now, that really needed a little explanation. It was a bit vague as it stood, and it was made particularly more vague by reason of the interpretation that was put on it by Deputy Lyons, who admitted that he had a weak spot in his heart, a kindly corner in his mind, for people who were putting in their cattle trespassing on other people's lands. I ask the Deputy to take the speeches which certain Deputies of his own Party have made on this section, and to read the section again, and to see whether my interpretation is not a more reasonable one.

Mr. JOHNSON: Certainly not. If this amendment is adopted or accepted, it is neither Deputy Lyons nor I will be interpreting it.

Mr. HOGAN: The Dáil will be enacting it.

Mr. JOHNSON: It will be interpreted by the Judge. The Dáil will be laying down what it desires and the lawyers and magistrates will interpret it. I am very dense and very dull, if that amendment is not very clear. It is just as clear to the Minister as it is to me.

Amendment put.

The Dáil divided: Tá, 13; Níl, 33.

Tá.

Tomás de Nóglá.
Riobárd Ó Deaghaidh.
Liam de Róiste.
Tomás Mac Eoin.
Seoirse Ghabhán Uí Dhubhthaigh.
Liam Ó Briain.
Tomás Ó Conaill.

Aodh Ó Cúlacháin.
Seámas Eabhróid.
Liam Ó Daímhín.
Seán Ó Laidhín.
Cathal Ó Seanáin.
Domhnall Ó Muirgheasa.

Nil.

Liam T. Mac Cosgair.
 Micheál Ó hAonghusa.
 Domhnall Ó Mocháin.
 Séamus Breathnach.
 Pádraig Mag Ualghairg.
 Peadar Mac a' Bháird.
 Deasmhumhain Mac Gearailt.
 Seán Ó Ruanaidh.
 Micheál de Duram.
 Risteárd Ó Maolchatha.
 Pilib Mac Cosgair.
 Micheál de Stáineas.
 Domhnall Mac Cárthaigh.
 Earnán Altún.
 Gearóid Mac Giobúin.
 Liam Thrift.
 Eoin Mac Néill.

Liam Mag Aonghusa.
 Pádraig Ó hOgáin.
 Pádraic Ó Máille.
 Seosamh Ó Faoileacháin.
 Seoirse Mac Niocaill.
 Séamus Ó Cruadhlaioich.
 Críostóir Ó Broin.
 Caoimhghin Ó hUigín.
 Próinsias Bulfin.
 Eamon Ó Dúgáin.
 Peadar Ó hAodha.
 Liam Mac Sioghaird.
 Tomás Ó Domhnaill.
 Earnán de Blaghd.
 Uinseann de Faoite.
 Séamus de Burea.

Amendment declared lost.

Mr. JOHNSON: I move amendment 59:—"In Sub-section (2), line 28, to delete the word 'may' and to substitute therefor the word 'shall.'"

Mr. O'BRIEN: I move amendment 60—"In Sub-section (2), line 29, after the word 'owner' to insert the words 'or pay to such owner the fair value thereof.'"

Mr. O'HIGGINS: I am accepting both these amendments.

Amendments agreed to.

Mr. DAVIN: I move amendment 61, standing in my name. It is:—"In Sub-section (4) to delete lines 43 and 44 and to substitute therefor the words 'shall be paid to the owner of such cattle or other animals.'"

The section says: "The money paid for the redemption or the proceeds of the sale of any cattle or other animals redeemed or sold under this section shall be applied in the first place in or towards the payment of the expenses of the seizure, removal, detention, and sale of such cattle and other animals, and in the next place," and so on, and it directs that the surplus shall be forfeited and paid into such special account in such bank as the Minister for Finance shall from time to time direct. I think this section goes too far when it states that the surplus, if any, of such proceeds will be forfeited and paid into such bank as the Minister for Finance shall from time to time direct. It is quite obvious that the sub-section in the earlier parts provides for compensation to the owner of the invaded land, and then goes on to provide for the confiscation of any surplus proceeds of the sale. This is an arbitrary penalty. It is arbitrary

because its extent depends not on the nature or gravity of the offence, but on the mere fact whether the amount that the cattle realise at the sale exceeds the amount of the compensation or not.

The State is entitled to punish evil-doers, but it is not entitled to make a profit out of their misdeeds. I suggest that the Minister, in view of the many things he has said in support of this Bill and the many other Bills in the Dáil, would be the last man to come forward and take up a Bill for compensation even of a private individual who might be guilty of offences with which part of this section pretends to deal. I move the amendment standing in my name.

AN LEAS-CHEANN COMHAIRLE
 at this stage took the Chair.

Mr. O'HIGGINS: The effect of this section, and the purpose of this section, is simply to convince people beyond all doubt that this particular line is not profitable; that it is not a paying game. If this amendment were accepted it provides certainly for compensation to the injured person. That is a sound principle. It says that before you go out to search the pockets of the ratepayers, you are going to levy compensation from the perpetrators of the wrong. But that is not a new principle. The Conspiracy Code provides for it, that where men combine to commit damage or to do wrong that they can be held jointly and severally liable for the wrong they do before other steps are taken to secure compensation for the injured person. Now, we have the sound but old principle of levying compensation from those who commit injury. You have further in the section a provision for covering the costs

[Mr. O'Higgins.] of securing compensation. The additional words directing compensation of the balance is the only penalty in the sense of pure penalty. The Deputy's amendment provides to do away with that. He will scarcely question that analysis of the section—compensation, the costs of securing that compensation, and then something that is not costs or compensation, but purely penalties.

Mr. DAVIN: Is this to be regarded as a fine?

Mr. O'HIGGINS: Yes, the remainder would be. I cannot accept the idea that this should be reduced merely to a matter of compensation and costs. I might offer some compromise to meet the Deputy's views, which appears to be that it ought only to be compensation and costs, if he could meet me to the extent of saying something to this effect:—"And the surplus, if any, after such additional fine as the circumstances of the case may seem to demand has been paid, shall be returned." That would at least have the effect of securing that the whole of the surplus would not be confiscated to the Exchequer. Remember that in our view, when this kind of flagrant invasion of property rights takes place, there is greater injury done than the injury merely to the individual owner. An act of that kind constitutes a challenge to the State, and to the State's laws, and if I were to accept the Deputy's amendment there would be no penalty from the point of view of the State. There is merely compensation to the injured owner, and provision for the levying of the costs to secure such compensation for the injured owner, but there is no purely penal section to adjust or counterbalance the wrong to the State, the injury to the State and the challenge to the State. That is implicit in an act of that kind. It is implicit and explicit. I would be prepared then to accept an amendment, the effect of which would be to restore all the surplus after this penalty had been met.

Mr. JOHNSON: I wonder does the Minister realise what is contained in this section. The Minister speaks quite clearly as though he was not merely the Executive Minister ordering the seizure on the land for proved trespass, but he is also the judge in the case of inflicting the penalty. That is a greater authority than he has asked in any other measure, I

think, in respect of property certainly. But will the Minister consider how inequitable it is? If a person owning these cattle happens to be a wealthy man, the punishment is going to fall lightly on him because he has other property, and the forfeiture of the proceeds of, say, six beasts may be quite a small penalty to a wealthy man. If the expenses of that detention were not very high even under the suggestion for the amendment by the Minister, the balance that will be returnable will be greater. But if it happens to be a poor man, who is living by the ownership of two or three cattle, and has been virtually using another man's land for the feeding of these cattle, the seizure of his cattle is not merely depriving him of the value of these cattle, but it is imposing a greater punitive measure upon him, because his offence is confined to a smaller number of cattle. That is quite unjust and inequitable. If the amendment were adopted it would at least modify and regulate the penalty in some degree to fit the offence. But if the section as it stands is retained, it simply means that if the offender is wealthy the punishment is not going to be so heavy, or if the cost of the sale and detention are smaller the punishment is not going to be so heavy. There is no regulation of the penalty according to the guilt of the offender. If the Minister seeks, as he does in his suggested amendment, the imposing of a fine, surely that fine ought to be measured by the offence, not by the value of the cattle, not by the cost of detention, but by something proximate to the guilt of the offender. Now, the amendment would at least move in the direction of regulating the penalty, but the section as it stands is distinctly unjust and unfair. I am not in that argument stressing the fact that the Minister is to be the prosecutor as well as the judge. That, I think, might have to be discussed again. From the point of view of fitting the penalty to the offence some change is required in the sub-section.

Mr. O'HIGGINS: I appreciate, of course, what the Deputy says as to the inadvisability of placing an Executive Minister in a quasi-judicial capacity, to decide the exact amount of the fines and so on. But to meet that view I would go to the length of inviting the Dáil to state the proportion of the balance of the surplus, after compensation and costs.

that ought not to be returned. If it would meet the Deputy's views to say that for a first offence 25 per cent. of the surplus to be confiscated to the public Exchequer, for the second offence, say, 50 per cent. of the surplus to be confiscated, and that in any subsequent offence the whole of the balance would be confiscated, I would be agreeable to have something like that at a subsequent stage. But I do stress this, that in this Bill, and having regard to all attendant circumstances of the times, this offence is visualised rather as an offence against the State and against public order and morality than as an injury done to one individual citizen, by an infringement on his property rights. Now, in the case of contrabrand the goods are seized summarily and arbitrarily, and the penalty is imposed, not by a Court or Judge, but by the Revenue Department itself, which makes the seizure. We are advised that if our right arm offend us we should cut it off and cast it from us, not half of it or a quarter of it, but the right arm. If a man's cow or cows offend in this particular way in these times, and after the very solemn warnings that have taken place within recent months by military action, and after the solemn warnings of this Bill, I, myself, do not consider it excessive that the entire proceeds of the sale should be confiscated, going partly to the compensation of the owner who is wronged, partly in costs to secure such compensation, and the balance to the State. But I would go some length to meet the views that have been expressed by endeavouring to set out in the section the proportion that ought to be retained. That would, at least, obviate the objection that Deputy Johnson has urged of placing the Minister in quasi-judicial capacity. This Court would then be deciding the amount of the fine in proportion to the total value of the proceeds. This is the highest Court in the land. I do not think there would be anything wrong or anomalous in the Dáil stating that a fixed proportion of the balance should be confiscated to the State, having regard to the fact that we, in this Bill and this Sub-section, are visualising this offence as an offence against the State and an offence against public order, rather than viewing it from the angle of the individual owner whose property rights are encroached upon.

Mr. JOHNSON: The suggestion of the Minister does not meet, I think, with the approval, and should not meet with the approval of the Dáil. The offence to my mind of allowing a dozen yearling stores to feed on another man's land is just as great as to allow a dozen two-year olds to feed on that man's land. The damage may be greater in the second case, but the compensation to the owner of the land may require to be higher. But the offence is as heinous in the one case as in the other, and if you are going to deal with this offender in the same way as you would with the offender who tries to evade the Customs, then you will definitely fine the offender for the offence as well as confiscating the property. To deal with the offender for the offence before you endeavour to try him, let the fine be a punishment for the stated offence. Apart from the question of compensation, from the question of seizure, take the offender and prosecute him and punish him for the offence. As to the punishment which might be applied, and no doubt would be applied, the loss of his property should be considered in inflicting that punishment. No doubt that would be done. But surely it is the proper course to adopt to punish a man for an offence and fine accordingly, instead of letting the fine be an automatic affair according to the value of the property which has been seized. The circumstances, for instance, of, say, a second or third trespass would make the offence very much greater. If it were the second or third offence it would be immeasurably greater in its guilt than for the first offence, and if it happened that the expenses of effecting the sale of the seized cattle on the second occasion were very much higher than the expenses on the first occasion the amount of the fine on a sliding scale arrangement would by no means fit the crime. But I think that the proposal of the Minister is quite apart from the requirements of the case. I submit that the suggestion in the amendment is a wiser one. That is, that if you are demanding that the proceeds of the sale shall, in the first case, go towards the payment of expenses attending the seizure and sale, and in the second place to order the payment of compensation for a person who has suffered by the trespass, then the balance ought to be put to the credit of the offender, and before it is confiscated he should be tried for the

[Mr. Johnson.]

offence. The nature of the offence should be proved, and then let him be treated by way of fine or imprisonment. Do not let the fine be a chance affair. Do not let it be automatically dependent as to whether the sale was good or bad, or the expenses high or low. These are matters entirely outside the control of the Minister or judge and the director of the prosecution, and entirely outside the control of the offender. It is, I think, far from reasonable that the Minister should make such a suggestion, as being equitable or just. The suggestion in the amendment certainly is much more related to one's sense of fairness, and it does not deprive the Minister of the right, aye, of the duty, to prosecute for this specific offence. Let the citizen who does wrong realise that he is being charged by the State which he has offended for that offence, and it is not a matter of the relationship between the offender and the owner of the property, but that it is in fact, as the Minister has urged, an offence against the State, and the State should deal with the offender against the law, not letting the penalty be automatic according to chance circumstances over which neither the prisoner nor the State nor the owner has control.

Mr. O'HIGGINS: In legislation of this kind there will of course be of necessity a certain arbitrary element. But the matter is not quite so arbitrary as Deputy Johnson endeavoured to represent when he selected as a matter of example the yearlings and two-year olds. The matter is not quite so arbitrary as that. This, if you wish, is summary and drastic, and to use a familiar phrase, rough and ready legislation. The times demand it. We are making no apology for it. But the principle is this. You have to treat the cause of this disease. You must treat the cause first. There is no use playing about with the symptoms. Deputy Sir James Craig will, I have no doubt, bear me out in that. You have to treat the causes, and the cause in this case is greed, the hope of gain, of illicit gain, gain from crime, and you can only check that, I submit, by setting off against that hope of gain a very definite and a very real prospect of loss. Now, the gain hoped for will be in proportion to the value and ages of the stock that is put into trespass. A man who puts in a calf—

Mr. JOHNSON: Would it not be rather the period during which the cattle are grazing?

Mr. O'HIGGINS: Well, he probably hopes to trespass indefinitely. The man who puts in a calf hopes to realise a certain definite gain by that process, the same with yearlings, and the same in the case of a man who puts in two-year olds. If Deputy Johnson tells me that it is not right that the man who puts in twelve yearlings should suffer more than the man who puts in a calf, that they both commit the same offence, the answer to that is two-fold. For one thing they do not both do the same damage, and for another thing there should be the principle of setting off your penalties so as to bear a rough proportion to the motive that insured the crime and the hope of gain. Deputy Davin is puzzled but Deputy Davin has sufficient agricultural recollections to know that what I say is true, that a man who puts in, say, two-years' old bullocks—forward stores—and expects to fatten and finish them on his neighbour's land is visualising a certain definite gain by doing that. In all the circumstances of the time and having regard to the extent to which this problem exists and the proportions to which it has grown you can only offset that by putting against it a very real prospect of a very substantial loss. You can go down the scale from the two-years' old forward store to the calf and substantially the loss will be in proportion to the gain hoped for. The man with the calf will lose in proportion to the gain hoped for and the man with the forward store loses likewise. You will not cure this disease in the body politic by any other process than by treating the cause and the cause is greed. Nothing that we did in recent months so struck the imagination of our naturally quick-witted people as that particular line of treating the cause; it sank home immediately. The lesson was learned. A blow struck here had reactions thirty miles away, so quick were people to learn the lesson. Deputies know that I am talking the truth. For six months we ask power to continue that procedure, until this evil will be once and for all eradicated. I cannot go into the mathematics of the thing. You could not in legislation of this kind. But it is sound principle to say that the man who goes out to rob, because it is

robbery, in the hope of gain, must be counterbalanced by the hope of loss.

Mr. DAVIN: I was rather surprised at the admission of the Minister when defending this Bill, that it was confiscation. It is a case of confiscation to deal with confiscation.

Mr. O'HIGGINS: Yes.

Mr. DAVIN: It is quite obvious, I am sure, to the Minister that the amendment is not for the purpose of preventing him and those who are responsible for dealing with such offences from punishing people in a proper and equitable way. The Minister, or whoever is going to act for him, has arbitrary powers for the seizure, removal, detention and sale of such cattle or other animals. Let us see the inequity of the case. Take for instance when the cattle are brought from Kanturk on the one hand and from the West of Ireland or the County Meath on the other. It is quite obvious that there would be a big difference in the charge for removal in these three particular cases. There might be a balance in one case whereas there would be no possibility of a balance in the other. Let us take the case of the two-years' old that the Minister spoke of. They might fetch in ordinary circumstances £20 per head. The cost of the seizure might be a different thing in so far as the troops who would be going to carry out the seizure might have to travel longer distances. The wages of the troops also have to be taken into consideration, and the cost of the railway journey, the carriage of the cattle, the cost of the detention, and so on. If all these things are taken into consideration they would form a very big proportion of the amount which the Minister or his representative would get in the Dublin Cattle Market for the cattle coming from different places and brought under different circumstances. The Minister was apparently in doubt when he was drafting this Section as to whether or not there would be a surplus. He asks the Dáil to say in a case where the actual value of the cattle sold is only sufficient to cover the cost of the seizure, removal, detention, sale and compensation for trespass, what proportion of the surplus 25, 50 or 5 per cent., where there is none, is going to be imposed on the individual. If there is no surplus how are you going to recover what the Minister states is in the nature of a fine?

Mr. O'HIGGINS: Of course 25 per cent. of nothing is nothing.

Mr. DAVIN: The section then does not make provision for recovery of the standard fine where no surplus is available. I think if the Minister works the problem out from a mathematical point of view, taking the place of seizure, the distance of removal, the wages of the soldiers, the distance they have to travel and what it costs the Government to send them there, in the long run the unfairness and inequity of the whole proposition will be seen.

Mr. O'HIGGINS: I made an offer on this proposal. If it is not accepted, I simply stand by the Section as it stands, that would be complete confiscation—compensation, costs and the surplus to the State. If the offer is accepted, even grudgingly, even as Deputy FitzGibbon said yesterday "with modified thankfulness," then I would bring up something to that effect on the next stage.

Mr. JOHNSON: I cannot advise Deputies to accept any such offer or any compromise of that kind which asks that offences shall be punished in that haphazard way, that fines shall be imposed by chance methods, rough and ready as they may be. I was sorry to have heard the Minister use the illustration in support of the Section, that because drastic action had been taken it had been effective even thirty miles away. The result of drastic action has been the one criterion as to the rightness of such action. I am not unfamiliar with the philosophy of those people who have advocated that the way to get things done is to do them without regard to procedure or usual methods of law—the philosophy of the direct-actionist. I am reminded every time the Minister utters his defence, of certain actions on the ground that the end justifies the means, of the philosophy of the direct-actionist. Peace reigns at Warsaw! The destruction of Warsaw brought peace. Peace was the end sought, and that was all about it. It did not matter how the end had been attained.

We have asked that this amendment should be accepted because the method proposed of dealing with cattle seized, because of trespass, was going to act inequitably upon the various offenders, that there was no fitting the punishment to the offence. There was a distinct

[Mr. Johnson.]

preference given to the man who had means. The wealthy offender was, without question, treated more leniently than the poor offender, and the suggested method of equalising the penalty was to simply remove some modicum of the gamble. If the expenses were greater then the balance to be divided would be smaller, and the 25 per cent. in that case would be a greater penalty than in another case.

Again, there is no modification of the fine or punishment where the offender is a first offender, a second offender or a regular criminal. There is no equity in the method at all, and the suggested improvement made by the Minister does not go any degree whatever to remove that inequity.

Mr. O'DONNELL: I would not make the distinction at all that Deputy John-

The Dáil divided: Tá, 13; Níl, 33.

Tomás de Nóglá.
Riobárd Ó Deaghaidh.
Liam de Róisto.
Tomás Mac Eoin.
Seoirse Ghabháin Uí Dhubhthaigh.
Liam Ó Briain.
Tomás Ó Conaill.

Donchadh Ó Guaire.
Micheál Ó hAonghusa.
Domhnall Ó Mocháin.
Seamus Breathnach.
Pádraig Mac Ualghairg.
Peadar Mac a' Bháird.
Darghal Fíges.
Doaenhumhain Mac Gearailt.
Seán Ó Ruanaidh.
Micheál de Duram.
Risteárd Ó Maolchatha.
Pilib Mac Cosgair.
Micheál de Stáineas.
Domhnall Mac Cárthaigh.
Earnán Altun.
Liam Thrift.
Eoin Mac Néill.

son has made between the wealthy offender and the poor offender. The distinction I would make is between the accidental offender and the wilful offender. If cattle go in accidentally and trespass on land and, perhaps, destroy a crop, the owner should be fully compensated for that crop, but for a wilful offence there should be some more punishment. I would draw a distinction between the wilful and the accidental, and I would say that there should be some more punishment for a wilful offence than for an accidental offence.

Mr. JOHNSON: The Section does not give that.

Mr. GERALD FITZGIBBON took the Chair at this stage.

Mr. O'DONNELL: Of course I would not mind about a *bona fide* cow that would stray along the road.

Amendment put.

Aodh Ó Cúlacháin.
Seamus Eabhróid.
Liam Ó Daimhín.
Soán Ó Laidhín.
Cathal Ó Seanáin.
Domhnall Ó Muirgheasa.

Níl.

Liam Mac Aonghusa.
Pádraig Ó hÓgáin.
Pádraic Ó Máille.
Seosamh Ó Faolencháin.
Seoirse Mac Niocaill.
Seamus Ó Cruadhlaioich.
Cristóir Ó Broin.
Caoimhghín Ó hUigín.
Próinsias Bulfin.
Próinsias Mac Aonghusa.
Peadar Ó hAodha.
Liam Mac Sioghaird.
Tomás Ó Domhnaill.
Earnán de Blaghd.
Uinseann de Faoite.
Seamus de Burea.

Amendment declared lost.

Mr. DESMOND FITZGERALD: In Deputy Duggan's absence I move Amendment No. 2:—"In Sub-section (4), lines 43 and 44, to delete the words 'such special account in such bank as the Minister for Finance shall from time to time direct,' and to substitute therefor the words the 'Exchequer in accordance with such directions as may be given from time to time by the Minister for Finance.'"

This amendment is merely a change in the drafting. The original draft was faulty. As drafted there is no indication as to what is to become of the surplus moneys when they are lodged. The amendment ensures that such surplus money will be brought into the Exchequer.

Mr. JOHNSON: It does not seem to me that this is merely a change in drafting. It seems to me to imply a distinct

change in purpose. The original intention was that such surpluses should be paid into such special account in such bank as the Minister for Finance shall, from time to time, direct. One would conclude from that, that there was an intention to keep the sums apart, to have them available and easily recognisable as sums kept apart for a distinct purpose. But the amendment rather suggests swallowing them up in the ordinary Exchequer, subject to such direction as may be given from time to time by the Minister for Finance. It rather seems that there is a change of intention covered by the change in phraseology. If the Minister had desired simply to do what the mover of the amendment alleges he would have added words "to be paid into such special account in such bank, and to be disposed of by the Minister for Finance as he shall from time to time direct." But the stress is laid here upon a special account, and I think there was a distinct intention in the Section as it stands to segregate these moneys with a view to, perhaps, restitution, or for such specific purpose. I think that the handing of those moneys into the ordinary Exchequer is not an improvement, though no doubt the Minister for Finance can find ways and means of getting instructions from the Dáil as to what is to become of the money which has been paid into the Exchequer. Am I not right in saying that once moneys were paid into the Exchequer it would require a specific vote of the Dáil to take them out and utilise them for a distinct purpose?

ACTING CHAIRMAN (Mr. FitzGibbon): That, I think, is an ordinary rule with regard to all moneys paid into the Exchequer. They can only be paid out in accordance with directions of the Dáil.

Mr. JOHNSON: So I think that makes a distinct change in the intention, and I would ask that some explanation be given as to why that change is required. The paying of these surpluses into a special account, as was originally intended, might well cover the purpose of paying those surpluses automatically on certain conditions, but I think that the amendment requires some further explanation before it should be accepted.

Mr. O'HIGGINS: There is nothing sinister about the amendment as the Deputy seems to suggest. It is merely

technical. On the one hand in the draft as it stood you had the instruction that this money would be kept in a special account, a separate bank, and the proposal is now that it be paid into the Exchequer in accordance with the directions of the Minister for Finance. It is not true to suggest that the former wording left the door any more open for recoupment than the present wording, or that the present wording any more bangs the doors on the possibility of recoupment in whole or in part than the former wording. In either case there could be no question of recoupment except by formal legislation to that effect. Deputy Johnson's statement rather suggested that in the previous case it would be open to the Dáil by resolution presumably—he did not state by what means exactly—to instruct the Minister for Finance as to the disposal of funds in the special account, and he seems to have an idea that the change removes such a possibility. Now that possibility did not exist. The previous wording was: "and the surplus if any of such money or proceeds shall be forfeited and paid into such special account." If the surplus is forfeit to the State it becomes the property of the State, and can only be disposed of by legislation initiated by the Minister for Finance. That is my information and my advice on this section, and the Deputy is not correct in his suggestion that there is any substantial change any more than what the mover of the amendment stated, and any more than a mere technical drafting change as between the amendment, and the wording as it stood.

Mr. JOHNSON: Of course there is the possibility that the Section as printed in the original draft might mean that the proceeds having had taken from them the expenses of the compensation, shall be forfeited by the holders of those proceeds, and the surplus shall be forfeited and paid into an account. They no longer are the property of the Minister who directs the sale.

ACTING CHAIRMAN: They never were the property of the Minister who directed the sale. The Minister acted on behalf of the State; they cannot be forfeited by the Minister who holds in his Ministerial capacity.

Mr. JOHNSON: There is no suggestion no definite contention here, that the

[Mr. Johnson.]

proceeds of the sale are then the property of the State. The Section does not provide for that until we come to the word "forfeited." It does not say they shall be forfeited to the State as the Minister interprets. These proceeds of the sale of cattle are to be expended in certain ways and the balance is to be forfeited. To whom and by whom? They are to be forfeited and paid into a special account in a bank. No doubt inasmuch as they are paid into the account directed by the Minister for Finance, they shall be under his control, but there is nothing in this Section which says they have then become the property of the State. While I do not

suppose the amendment makes a tremendous change, there is an added implication, a more direct implication, that the forfeiture is into the Exchequer, and it is a forfeiture to the State, and that is a very distinct change in the intention, at least in the language, and the possible interpretation of the clause as originally drafted and the clause as it would be amended if this amendment were passed. I think that the holding of those monies in a suspense account of some kind in a special bank may be more satisfactory than putting them into the Exchequer, and, in a way, losing them in the general sum.

Amendment put.

The Dáil divided: Tá, 35; Níl, 12.

Tá.

Donchadh Ó Guaire.
Micheál Ó hAonghusa.
Domhnall Ó Mocháin.
Seamus Breathnach.
Pádraig Mag Ualghairg.
Peadar Mac a' Bháird.
Darghal Fíges.
Seoirse Ghabháin Uí Dhubhthaigh.
Deasmhumhain Mac Gearailt.
Seán Ó Ruaneidh.
Micheál de Duram.
Risteárd Ó Maolchatha.
Pilib Mac Cosgair.
Micheál de Stáineas.
Domhnall Mac Cárthaigh.
Earnán Altín.
Sir Seamus Craig.
Liam Thrift.

Liam Mag Aonghusa.
Pádraig Ó hÓgáin.
Pádraic Ó Máille.
Seosamh Ó Faoileacháin.
Seoirse Mac Niocaill.
Seamas Ó Cruadhlaoidh.
Eoin Mac Néill.
Cristóir Ó Broin.
Caoimhghlin Ó hUigín.
Próinsias Bulfin.
Próinsias Mag Aonghusa.
Peadar Ó hAodha.
Liam Mac Sioghaird.
Tomás Ó Domhnaill.
Earnán de Blaghd.
Uinseann de Faoite.
Seamus de Burea.

Níl.

Tomás de Nóglá.
Riobárd Ó Deaghaidh.
Liam de Róiste.
Tomás Mac Eoin.
Liam Ó Briain.
Tomás Ó Conaill.

Aodh Ó Cúlacháin.
Seamus Eabhróid.
Liam Ó Daimhlín.
Seán Ó Laidhin.
Cathal Ó Seannáin.
Domhnall Ó Muirgheasa.

Amendment declared carried.

Mr. O'HIGGINS: I move to Report progress, the Committee to resume at 3 o'clock on Monday. I am not now moving the Section.

Motion put and agreed to.

[THE DAIL RESUMES.]

Progress Reported. Committee ordered to sit again on Monday.

Mr. O'HIGGINS: I move that the Dáil now adjourns until 3 o'clock on Monday.

Motion put and agreed to.

The Dáil adjourned at 3.50 p.m.

DAIL EIREANN.

DE LUAIN, 16ADH IUL, 1923.

(Monday, 16th July, 1923.)

Cromadh ar obair an lae ar a 3.15 p.m. Bhí an Ceann Comhairle, Micheál O hAodha, 'sa Chathaoir.

SUSPENSION OF STANDING ORDERS.

MINISTER for HOME AFFAIRS (Mr. Kevin O'Higgins): Before we proceed with the business, I have to move: "That the Dáil sit later than 8.30 to-day for the consideration of the Public Safety (Emergency Powers) Bill, 1923, and adjourn not later than 6 a.m. to-morrow, Tuesday, 17th July."

MINISTER for LOCAL GOVERNMENT (Mr. Blythe): I second that.

Mr. JOHNSON: I would like to hear some reasons given before this question is thrown into discussion.

Mr. O'HIGGINS: I should have thought that the reasons are very obvious. There is a heavy legislative programme awaiting the consideration of the Dáil and Seanad, and it is necessary to get through this Bill in order that other Bills may be brought forward for the consideration of the Dáil. The reasons are just the same reasons as compelled us to sit late on Thursday night last—just the same reasons.

Mr. JOHNSON: That means that there are no reasons whatever. The legislative programme that is before us is one other Bill, of which the Second Reading has been taken, and to which a very small number of amendments have been put forward. That is the heavy legislative programme that we are asked to deal with. When is the General Election? Is it next week or the week after, or three weeks or a month hence? If not, where is the heavy legislative programme that demands a night sitting? That is not the reason, notwithstanding what the Minister says. I protest against what I consider to be very scurvy treatment of the Dáil by the Minister and his colleagues.

On Thursday, we were here to discuss

business in the ordinary course, with the ordinary Standing Orders, having had the ordinary notice that the business would be conducted in the ordinary way. We have had, week after week, business coming to us, adjournments over several dates. We have had men coming from the country for one day and going back again with no other business in hands. Then the Minister comes forward on Thursday, and tells us that we have to sit beyond the normal period. He moved that we sit until 4 o'clock in the morning. On Friday we adjourned without any notice of any new procedure, of any suspension of Standing Orders, or any alterations in Parliamentary time. The Minister comes forward to-day again at 3 o'clock in the day, and tells us that we are to suspend the Standing Orders. He moves the suspension of the Standing Orders for the abolition of the time limit. I say that is scurvy treatment of the Dáil. It means that in the minds of the Ministers this Dáil is merely a toy for them to play with. We are to say "ditto." "What we have decreed, you are to obey." I resent that kind of treatment. I ask the Dáil to resent that kind of treatment.

Ministers have been treated by the Dáil very fairly, and very reasonably, and with the greatest possible amount of consideration. They have brought forward Bills here; they have broken their rules of order. They have broken their Standing Orders time after time, and they asked for the leniency of the Dáil. They do it time after time. They have broken all the rules of order, and all the rules of debate. Then they come forward to the Dáil and say, "Here is a thing we want done." They give the Dáil no consideration whatever. They say, "Because we have willed it the majority of the Dáil must follow us." We have been given no consideration whatever. That is scurvy treatment of the Dáil, and we resent it. If the Ministers are going to treat the Dáil in the way they threaten they will get all the opposition they require. If they are going to treat the Dáil as a toy, if they are going to destroy any attempt to make this Assembly worthy of the name of Parliament, if they are going to destroy this Dáil they are welcome to it, and they will get every possible amount of assistance. They can easily do it. If they are going to challenge us to bring this Dáil into contempt,

[Mr. Johnson.]

then they can have it brought into contempt.

I say that the method of conducting business has been a scandal and a shame, and this procedure of trying to rush a Bill of this kind through in the small hours of the morning, and coming here in the afternoon of the day and asking for the suspension of the Standing Orders so that we shall be here again all night, is treating the Dáil scurvily, and without any of the reasonable amount of consideration with which men should be treated.

The PRESIDENT: I regret that the Deputy has thought fit to use such language as he has used in connection with the motion for the suspension of the Standing Orders.

AN CEANN COMHAIRLE: There is no motion to suspend the Standing Orders. Under the Standing Orders a motion can be made without notice for the extension of the time.

The PRESIDENT: Well, the motion for the suspension of the time limit. It is a motion at any rate that is provided for, and for which the Standing Orders were specially adapted to make provision. The Deputy says we have not good reasons for this particular proposal. I gave the reasons on the last day, the first day that we moved to sit late. The reasons were, first, there was a considerable amount of business, and I adhere to that statement. There is a considerable amount of business. Some thirteen estimates have not yet been passed, and when they are passed an Appropriation Bill will be necessary, and it will have to be dealt with before the first of August. In addition to that there are other Bills practically ready for introduction, but we must clear the way with regard to this particular measure. The question is: is this Bill that is now presented a Bill of any importance? Is it a Bill of urgency, and is it a Bill in connection with which the Deputy, if he were here on these Benches and in the same position as we are, would be free to say "I will not have this Bill." Everybody in the Dáil, and nobody better than the Deputy, knows that if he were here he would have to introduce a Bill not having, perhaps, all the attributes of this particular measure; at any rate he would have to introduce a

Bill similar in its main functions, having the same character and embracing the same provisions as there are in this one. If other business be tabled it will delay the passing of this Bill, and the passing of this Bill cannot be delayed. I quite admit the Dáil has treated the Ministry with every consideration; I have admitted that more than once. I have admitted that as far as the transaction of ordinary business is concerned, we have been facilitated in every way at any time that we asked to be facilitated. Deputies are certainly aware of the fact that we had not a free hand with regard to many measures that were brought forward. Some had got to be considered before a certain date; other matters of considerable importance had to be brought forward before they were considered; and there were occasions when we had to ask for special consideration owing to the circumstance of the time. We are not living in normal times; everybody knows that. There may be people who say that we are approaching normality. I quite admit that. We may have normal conditions now; but, the setting up of a Government to arrange for the laying of a foundation for the future convenience and stability of the State, is a matter of no small difficulty now as compared with a normal period. While Deputies are perfectly entitled to criticise the Ministry, the Ministry's time has not been sufficient. Twenty-four hours in the day are not sufficient to enable us to deal with present legislation. The setting up of services required considerable attention. Some had to be constructed from the very foundations, and that work had to be carried on together with the ordinary transaction of the affairs of Government. During that period there have been continuous communications in regard to the financial adjustments and otherwise between the British Government and this country. I am positively certain that for some time to come, even when a new Government has been elected, such delays are inevitable until really normal conditions are restored, and by normal conditions I mean normal conditions of government, in which it will not be necessary to take up these temporary financial adjustments that have to be made. The Deputy asks when will the General Election take place. I can assure him that I am not in a position to say when the General Election will be.

I am not in a position to say for two reasons, one of which is very material to the issue. I do not know at this moment when exactly the Register will be available. We cannot decide when an Election will take place until we have that information. The other reason is that there are certain Bills to be considered before the General Election. I do not know that I could give any more satisfactory answer than that, and it does appear to me while the Deputy may feel annoyed, that we have not resented very lengthy discussion on this particular measure. We have not introduced the closure on this or on any other measure. I explained that if we did that it would not be necessary for us to ask for those long sittings. We wish that to this and other Bills the greatest consideration and the most lengthy consideration should be given by the Deputies. I am sure Deputy Johnson will admit that so far as this is concerned what I have stated is exactly the case.

CATHAL O'SHANNON: The President has asked whether the measure before the Dáil is an important one. It is. It is so important that plenty of time should be given for its discussion. What are the facts?

It was introduced without half as much notice as any other measure that has been introduced. It went through its first and second stages. It came forward for Committee on last Monday, and, as everybody in the Dáil is aware, when it came before the Committee last Monday the Dáil had to adjourn until Tuesday because sufficient notice, even according to the Standing Orders, had not been given for its consideration. In other words, Monday, legislatively, was largely lost. I am not attributing blame in any particular direction for that, but nobody knows better than Ministers that three or four weeks ago the Dáil adjourned for two or three days. No. I am not going to object to an adjournment of that kind, but if there was need for such desperate haste and desperate urgency in the consideration of all these things why not make a better use of the time at the disposal of the Dáil? I remember that the adjournment was moved on the night of the Second Reading of this Bill, and it was moved for a certain purpose; that purpose was achieved after two days, namely the

second two days of the races at the Curragh. There still remained one further Parliamentary day, and it would have been quite possible for the Dáil to have dealt with its legislation on that other day. The consideration of further Estimates was before the Dáil at that time, but they were not reached and we are now told that they must be got through before a particular time, but the Dáil at the request of the Ministry wasted its time, and declined to meet at a time when, according to the opinion of the Ministry, it ought to have met. Whose fault was that? Certainly not the fault of those who were endeavouring to carry out their duty by criticising the Bill. With the exception of six or seven people on this side of the Dáil and two or three elsewhere, apart from the Ministers concerned, the Dáil has given little or no consideration to the Bill. It has simply taken it as it was put before it and it is prepared on the whole to do the same for the future. Why exactly is it necessary that this thing should be done to-night and at such short notice? Why must you have the measure pass its Committee Stage before to-morrow morning? What is the business before the Dáil to-morrow? The talk on the last occasion that this step was taken about the necessity for doing this in a hurry was largely fudge, because no matter how much we hurry the matter here it has still got to go through the Seanad, and the Seanad is not meeting within the next two or three days. We have got to have the Report Stage before that and also the Final Stage. You did get two or three days' work squeezed into 21 hours on Thursday night and Friday morning, but I hope that this Dáil will never put itself in the position in which the Seanad has put itself when it squeezed three or four weeks' work into twenty minutes. The thing is a scandal. You have got already, and I suggest you take full advantage of it, a docile majority that will vote here whatever the Ministry puts before it without question. I have no hesitation in saying that. There has been no attempt unduly to prolong the Committee Stage of this Bill.

I have taken some pains to look over the time spent by the various speakers in criticism of the Bill. I find invariably that they had not taken the full limit of time allowed by the Standing Orders.

[Cathal O'Shannon.]

Those of the Deputies who attend the debates while they are going on know perfectly well, and no one knows it better than the Minister, that those who have been opposing the measure could work out the full limit. They have not done so; they have confined themselves to speaking at such length as they think necessary for dealing with particular points. I do not want at all to discuss the Bill or any of its provisions now, but I suggest that it is just as unnecessary to rush this Bill as it is unnecessary to put certain exceptional provisions into the Bill. On Thursday night the Ministry thought, I presume, that by having an all-night sitting they could wear out the opposition to the Bill, and that legislative consciences were so elastic that after three or four hours' discussion we would be as tractable as the Government majority in the Dáil. We were not. We were sent here to perform certain duties. To the best of our ability and judgment we have been performing them and we shall continue to perform those duties, but if there is anything to the discredit of the Dáil that discredit will not fall on the opposition to the Bill, but will fall on the majority supporting the measure. Again and again we have noted that the greatest weakness and the biggest fault of this Dáil have been the docility of the majority of the Dáil in regard to whatever is put before them. They consider themselves simply little more than a mere registering machine.

Long ago, at the height of your crisis, when you were threatened with the overthrowing, not only of this Dáil and of this Ministry, but with the overthrow of the Treaty which brought this Dáil, this Ministry and this Free State into existence, you did things that we had occasion to oppose. I want to say that, in spite of the bitter opposition on many things we had to give you then, we had such a keen realisation of our duties that, whether personally, politically, or collectively distasteful to us, we took our stand on certain things. We continue to take that stand, and in the deliberate judgment at least, of one of us, we did a great national service to this State by doing so, because at any moment had we chosen we could have let you remain simply a registering machine—not a mutual admiration society exactly, but a body that would not even have the

courage to be a mutual admiration society, but that would come here day after day, hour after hour, and rush indecently without any consideration, except the consideration given by draftsmen and Ministers, every measure. We did not choose to do so; we took a different line. We thought it was the duty, at least, of somebody in the Dáil to subject measures that came before the Dáil to scrutiny and examination. No Minister, and no Deputy supporting the Government can deny that if there came helpful suggestions, if there came useful hints from any side of the Dáil outside the Ministry, they came from those who are opposing this measure, and they only came because those opposing this measure now, and who were criticising and examining previous measures, gave thought and consideration to those measures, examined them line by line, picked out what they thought were their weaknesses, suggested changes that they thought would be useful, helpful, and strengthening to those measures.

We have done the same with this measure. We have tried to change it; we have not asked for anything except ordinary consideration. We have only asked that the Dáil should be treated as a legislative assembly, purely and simply as a deliberative and legislative assembly. If you want it to be something less than that, something quite different, then in honesty and decency you ought to say so, and if anyone has an objection to your change of mind, to your change of policy, to your new conception of what the Dáil ought to be, then those who have such objections can consider their position and decide whether they will or will not support you by continuing to take part in the proceedings. In theory you have deliberately chosen that this should be a deliberative and legislative assembly. We have endeavoured to help in making it so, and now, because you are piqued, because you are disappointed and vexed like children at school, because you cannot get your own way in everything, then you must have all night sittings. Perhaps it is not so much that we would object to you voting as a block; you are quite entitled to do it. It is the custom, more or less, and the practice of such assemblies as this to do that. But your greatest sin in this Dáil has been your absolute indifference to discussion.

Mr. BLYTHE: On a point of order, is the Deputy addressing the Chair?

AN CEANN COMHAIRLE: The Deputy is to address the Chair.

CATHAL O'SHANNON: The greatest sin and weakness of the Dáil has been that Deputies have refused to discuss certain things. Certain things were stated in the Press about the last all-night sitting, many of them incorrect. Can anyone deny that throughout this discussion you were not engaged in deliberating at all until the division bell rung? If you desire that there should be no division bells rung, that the Ministry should be allowed to do just as they please, if the Dáil desires that that should be the state of affairs let the Ministry say so, and some of us, at all events, will do our best to accommodate them.

Professor MAGENNIS: The Deputy who has just spoken seems to take so much delight in bouquets being thrown that, in default of their being thrown by others, he throws bouquets to himself and to his Party, and it would be a pity not to add to his gratification by throwing a further bouquet from the Independent benches. It is true that, in these days of strain to which he refers so feelingly, it was unnecessary to force attendance in the Dáil during the long sittings, because in these days the patriotism of the Deputy and his Party exhibited itself conspicuously. There was no attempt to speak out lengthened speeches in wearisome detail, but there was a desire to be helpful, and to make the proposed measures more useful and more effective for their intended purpose. I was present throughout the greater part of the sitting of Thursday night and Friday morning.

CATHAL O'SHANNON: Silent.

Professor MAGENNIS: I was present. Does the Deputy suggest that my mind was not working? He went out of his way to be offensive to many of us, and declared that, because we did not join in the childish amusements in which he indulged himself, that therefore we were not taking a serious view of the position. He spoke just now of "We." Nothing amazed me, who sat through that night-long debate, so much as the word indicative of unity regarding his Party. A little after 5 o'clock in the morning on Friday the Deputy himself

was engaged in the rôle of enacting the "fat boy" from Dickens, trying to make our flesh creep with the details of the horrors and the agony of whipping, as described in some book which he read, and, only a little time before, his ostensible leader was reading from another book a passage to show that the Recorder of Liverpool had found, by experience, that instead of whipping being mediæval without chivalry, that it was a punishment which held so little dread for those who were expecting it, that they asked for it in preference to lengthy terms of imprisonment. The leader of the Party told us that the attitude of the expectant convict was pretty much that of a child towards cod liver oil as we see it depicted in newspaper advertisements. The children look at it, and ask for more; and "we," the same Party, ask us to believe that this is such a horrible, barbarous, and nefarious punishment that it is a disgrace to civilisation to attempt to impose it upon men who have as little regard for civilisation as they have for their parole. Deputy Johnson says we have no need for haste. I speak for myself, personally, and as they have advanced their considerations for personal comfort without stating it explicitly, I advance mine. I want a summer holiday, and I do not see why I should be obliged to sit here, day after day, and week after week, listening to Deputy A. proposing that the figure 21 should be changed to 23, and then when that is defeated, another member of his Party, after speaking for the third time for 10 or 15 minutes, proposes that the number should be changed to 19. There ought to be some consideration not merely for the members of the Dáil, but for the discharge of public business. It was a Deputy in the front benches of his own Party who proposed that we should sit to 8 a.m. We all rose to the suggestion. No sooner did he indicate the desire of his Party to sit until 8 a.m. than the majority immediately voted to sit until that hour. Now, he complains that it is an effort to wear them down. There is the legislative programme to be considered. We have been promised a Bill to which I am looking forward with great interest, and I would prefer to go without a holiday than to miss that Bill—the Ministries' Bill. That has been dangled before our eyes for quite a considerable period, and we are living in expectation of it. There is also the Bill to deal with the Consti-

[Professor Magennis.]
tution of the Judiciary System. Then there is the Army Bill, and several other Bills—

Mr. JOHNSON: They have been promised, but not introduced.

Mr. DARRELL FIGGIS: They are not coming before the elections.

Professor MAGENNIS: Deputy Figgis says that they are not coming before the elections. Possibly they may, or may not, but those of us who are working men, attending the Dáil from day to day, and work besides, feel the strain, and are anxious to have a summer recess of some sort. I think I am entitled, in the name of humanity to Deputies, to speak in these terms. Humanitarian considerations have been pressed with regard to men who burn other people's houses in the night, and their children after the houses. We are asked to shed tears for the robber who arms himself in order to terrorise the bank clerk.

Mr. JOHNSON: Who asked that?

Professor MAGENNIS: Are tears not to be shed for other victims?

CATHAL O'SHANNON: Who asked that?

Professor MAGENNIS: Those who called for the withdrawal, or the evisceration for all effective purposes, of Clauses in this Bill in the name of civilisation. They are practically asking for that, although none of them have had the courage to stand up and defend these people altogether. No, but they display an amount of anxiety for nice and gentle treatment of malefactors of that sort.

Mr. JOHNSON: We are backed up by Deputy FitzGibbon at least in that.

Mr. DAVIN: What about the Recorder of Dublin?

Professor MAGENNIS: The Recorder of Dublin is not in order here.

Mr. O'BRIEN: Is it in order for the Deputy to suggest that only for lack of courage we would have done these things?

Professor MAGENNIS: I did not suggest anything of that kind. I did not speak in that fashion. I measure my words. I said that they had not the courage to do it.

Mr. O'BRIEN: Willing to wound yet afraid to strike.

AN CEANN COMHAIRLE: It would be better that we did not discuss the Bill just now.

Professor MAGENNIS: I am sorry if I have trespassed in discussing the Bill. I pointed out what the operations are that those interested in the passing of the Bill have to face. It is absurd—I have already called it offensive—but it is absurd to suggest that those of us who voted for this measure voted with blind acquiescence, that we did what we understood not. Deputy O'Shannon complained that I was silent. Would anything that I could have said have altered his vote or the vote of any member of his party? The fact is that we are all quite alive to the necessity of getting this Bill passed, and the fewer speeches made upon it the better where they are merely damnable reiteration, to quote a famous eighteenth century phrase. For my part I am prepared to remain for four or five consecutive all-night sittings rather than have the Bill blocked by lengthy discussion of immaterial details.

MINISTER for EDUCATION (Professor Eoin MacNeill): I am afraid my friend, Deputy Magennis, has attached too much gravity, and too much seriousness to the situation. I am quite sure Deputy O'Shannon did not intend to be taken seriously when, in the words of Deputy Magennis, he presented himself and those acting with him with a very elaborate bouquet. It is some months ago since I complimented Deputies on the other side in belonging to the legitimate section of the opposition of this assembly, and I see nothing in the recent discussion that would induce me to qualify that compliment. We have been told on this side of the Dáil that we vote in block. The proceedings, especially on the discussion of this Bill, will show where the best examples are to be found of voting in block.

CATHAL O'SHANNON: And where the best discussions are to be found also.

Professor MAGENNIS: The longest speeches, not the best.

Professor MacNEILL: I will come in a moment to discuss that.

CATHAL O'SHANNON: Why did you accept some of our amendments?

Professor MacNEILL: I am quite willing to give way to the Deputy if he wishes to make another speech. I do not know whether, in any dictionary of the English language, it will be found that the word "consideration" and the word "deliberation" which have been used in regard to this Bill contain anything, in their definition, to indicate that they consist in making speeches. Certainly for my part I find I can consider best when I am silent, and I often consider better, than otherwise, when other people are silent also.

Mr. O'CONNELL: Why summon the Dáil then?

Professor MacNEILL: The same, I think, applies to "deliberation." I am not going to deny that it is possible to think that all the things that the section on the other side of the Dáil have said are true, and that they have all the virtues, as we are told, and that we have all the vices. It is possible to think of the meaning of the things that they say; but the suggestion before us now is that if we had a day's interval, upon each occasion, so that by this time tomorrow we would have fully appreciated the weight and the merit of the things Deputies have said to us to-day, then we would have proceeded with due deliberation; but that it is impossible to come to a conclusion on the same afternoon on the merits, or, at all events, if we sit continuously for an evening, it is not deliberation, whereas if we break up our discussion into junks of three or four hours it would allow ample time for everything to sink deeply into our minds, and that that is deliberation.

CATHAL O'SHANNON: On a point of explanation I do not think that I or any other Deputy on this side suggested that no decision should be come to until the next day on a point made to-day.

Professor MacNEILL: No, but we are told we are proceeding with undue haste, which means that we are not allowing the arguments presented to us to sink into our minds. Some further things have been suggested. It certainly has been suggested in some of the interruptions, if it has not been suggested in any of the responsible speeches made on the opposite side, that the Ministry, in some way or other, has been introducing deliberate delay

into its legislative programme. We have been told, in an interruption, that certain things brought forward in the legislative programme were not intended to be passed before the elections, and in another interruption that they were being dangled.

We have not been told in any responsible speech, nor has any responsible speech been made from any quarter of the Dáil that the members of the Ministry here were wasting time, that they were delaying legislation, that they were deliberately imposing obstacles or delays in the way of their own legislation. If we were told that, I think we, and every person who has a true appreciation of the facts, would receive the suggestion with amusement. Only one other point in regard to what the Deputy said. He made a further suggestion—I will not deal with the things which I hope were not said with any view to provoking acrimony—a suggestion that the only people who think, who deliberate and consider, are those who presented so frequently on the last sitting on this Bill, the number thirteen in the divisions. Those are the only people in the Dáil who think, who deliberate and who consider, and the people who sit on this side of the Dáil are a docile flock who vote *en masse*, who do exactly what the Ministry desire, and whom I suppose the Ministry never consults on any point. The other suggestion which brings me to where I began—that Deputy Professor Magennis has taken the matter far too seriously—was the suggestion that in making the proposal to have a prolonged sitting, on the previous occasion, or on this occasion, our object is to wear down the opposition. I am one of the oldest men in this assembly. I do not know, looking around, that I could count on the powerful physique on this side of the Dáil wearing down the puny material resources of, shall I say, Deputy O'Connell, or Deputy Davin. I do not know that we could count on our powers of holding out against the miserable resources that are at the command of these gentlemen. I wonder really whether Deputy O'Shannon meant that to be taken seriously, or whether Deputy Professor Magennis was justified in taking that and some of the other remarks he made quite so seriously as he did.

Mr. DAVIN: It is rather refreshing to find that the silence of Deputy Professor

[Mr. Davin.]

Magennis has been broken at last, by giving expression to the opinion that the speeches on this side of the Dáil were damnable reiteration. If they were of such a character as Deputy Magennis describes them, I wonder how he can explain that the records of that particular debate show that 17 amendments had been accepted from this side of the Dáil, and several others had been promised consideration. That is proof, at any rate, that the first statement made by Deputy Professor Magennis is not altogether correct. The President has asked whether or not this is to be considered as a Bill of importance. It certainly is not one of the fourteen Bills that he handed to us in a list some considerable time ago. Many of the Bills which were on that list have been pressed for by various members of this Dáil, as being important and meaning a good deal to many people outside. The President's question is answered by the fact that no speeches have been made from his own side of the Dáil in support of the Bill, or against even any amendments that have been put up. When the first all night sitting was proposed, Deputy Sean Milroy suggested that it was inhuman to make any such proposal.

Mr. MILROY: On a point of correction, I made no such suggestion. I would like the Deputy to quote me correctly.

Mr. DAVIN: The statement he made was that human nature could not stand it. I remember distinctly sitting here for hours during that long night and seeing the effect of the all night sitting on Deputy Sean Milroy, that he anticipated. I think that could be said of others of Deputy Milroy's party, and the proportion who suffered in that way was considerably more than those who suffered on this side of the Dáil.

Mr. WHELEHAN: Due no doubt to the angelic nature of the Deputies on the opposite Benches, whichever region they came from.

Mr. DAVIN: I have not had the pleasure of hearing the interruption. I suppose it is an attempt at a joke, on account of the smiles on the faces of the people who sit around Deputy Whelehan. I think it has not been contended, even by the Minister, who has

been the only member of the Government party who has taken any strong line of action in opposing the amendments from this side of the Dáil, that the amendments were ridiculous. They have at any rate, so far as we are concerned, in the most important Bill that has been introduced, been put up in order to make the Bill more acceptable than what we thought it was when presented with the backing of his own party. I am quite certain that the Bill is not being rushed for the purposes of giving an exhibition of flogging, because the Recorder of Dublin has provided for that by a decision he gave in a case on Friday last. Therefore, there can be no suggestion that there is any hurry from that point of view, as the existing law makes provision for dealing with people committing the offences that are mentioned in the particular Clause of the Bill.

After all, Deputies on this side of the Dáil, though they may be few, are entitled to some consideration with regard to the effect of several all-night sittings. They should be taken into consideration by the Committee on procedure, or by whatever other Committee is responsible for the arrangement of these Bills, before a motion, such as is now made by the Minister, is sprung upon them. Some Deputies live a long distance from these premises, and they should be made aware before they come here that they will be expected to sit out the night. This information is only given to the Minister's own colleagues and those who sit behind him. Some provision should be made by which notice would be given of a motion of this kind before we are asked to vote for it in the hurried way in which it is now presented.

Mr. SEAN MILROY: I want to correct a statement made by the last speaker. He said that the motions are known only to the Minister, and those who sit behind him. I happen to sit behind the Minister, as well as stand behind him, and I had no more knowledge of this proposal than the Deputies on the other side. I am not making any grievance of it, but before I proceed further I would like to call the attention of the Dáil to the very generous tribute which the last speaker paid to the Government. He said the Government had accepted 17 amendments from their side, and promised consideration to others. Is that an attempt at ruthless legislation?

Does that not indicate that the Ministerial mind was open to receive any helpful suggestion made?

Mr. DAVIN: On a point of explanation, I made the statement referred to in order to prove the necessity for putting up these amendments. Some of them were not accepted until they had been spoken to three times from this side of the Dáil.

Mr. MILROY: It shows that the Ministerial mind is not so impervious to argument as some of the Deputies have been trying to prove. I think a party that can succeed in getting 17 amendments accepted by a Minister in the short time this Bill has been in Committee must be a party that can congratulate itself on its legislative powers of persuasion. The Deputy made some allusion to the statement I made the last day. The statement I made that day I do not wish to retract. The original motion was, I think, that the Dáil should sit not later than 4.30 o'clock.

AN CEANN COMHAIRLE: Four o'clock.

Mr. MILROY: The motion of Deputy O'Brien, without any suggestion that the Deputies should get overtime, was that the hour be extended until 8 o'clock. I think in this matter we have even a greater grievance than the dockers who have gone on strike to-day. What occurred to me, under those circumstances was, that having secured an extension of four hours in the morning, the suggestion of Deputy Johnson to adjourn prior to the discussion was not one of an extravagant nature. But the Ministry know their legislative time-table, and they know their position with regard to the matters they want to get through, and I bow to their decision. There is no doubt at all about the urgency of this Bill. If those phases of the Bill that have evoked torrents of denunciation from the other side of the Dáil are so heinous, then I want to know why some Deputies on the other side of the Dáil have not risen to move the adjournment or given notice to raise on the adjournment a question calling attention to the decision of the Recorder the other day. That has evoked no horror—

AN CEANN COMHAIRLE: That is out of order absolutely.

Mr. MILROY: I do not like to be out of order. Another argument has been put forward by another opponent of this motion. The Deputy who spoke last said he saw evidence of the fatigue of the last night's sitting upon myself. Undoubtedly. It took me a good while to recover from the fatigue of that night, but I do not regret having sat here if it expedited the Bill. I am prepared to indulge in twice as much fatigue to-night if necessary. The Deputy also made an interesting point which I would like to emphasise—that this is an attempt to wear down the other side of the Chamber. He simply endorsed the observations of Deputy Professor MacNeill, the Minister for Education. He said although he saw evidence of weariness on this side of the Dáil there was no evidence of weariness on the other side. Evidently it is impossible to do anything to wear down the Deputies on the other side, and, therefore, they have adduced no argument to show that this proposal is an undue strain upon them, whatever it may be upon the delicate physique of the Deputies who are sitting or standing behind the Government.

Mr. O'CONNELL rose to speak.

Mr. O'HIGGINS: I move that the question be now put.

AN CEANN COMHAIRLE: I will hear Deputy O'Connell before I take that motion.

Mr. O'CONNELL: The sum and substance of the objection by Deputy Johnson to this motion was that it was brought forward without due notice to Deputies. When we came here on Thursday we were told that there would be an all-night sitting. That was the first of it that the Deputies on this side heard and from the statement made by Deputy Milroy that was the first other Deputies heard of it also.

Now we went through that all-night sitting and we met here on Friday. On the occasion of the adjournment on Friday there was no word and nothing to indicate that there would be another all-night sitting to-night. Why was it not moved then that there should be an all-night sitting to-night? If that were done, as far as I am concerned, it would remove a considerable portion of my objection. I do not like to be brought here, having arranged for other business, as many of us have to do, after

[Mr. O'Connell.]

8.30 p.m., and then he told on coming here that we will have to sit until 6 o'clock in the morning. If I was told to-day that there would be another all-night sitting to-morrow night my objection would not be so strong as it is to this motion. We heard three Ministers and two or three other Deputies speaking in favour of the motion, but

one and all kept clear of that point, the sum and substance of Deputy Johnson's objection.

Mr. McCARTHY: I move that the question be now put.

Mr. STAINES: I second.

Motion put: "That the question be now put."

The Dáil divided: Tá, 38; Níl, 11.

Tá.

Liam T. Mac Cosgair.
Donchadh Ó Guaire.
Gearoid Ó Suileabháin.
Seán Ó Maolruaidh.
Seán Ó Duinnín.
Micheál Ó hAonghusa.
Seán Ó hAodha.
Seamus Breathnach.
Deasamhúhain Mac Gearailt.
Seán Mac Garaidh.
Risteárd Ó Maolchatha.
Pilib Mac Cosgair.
Micheál de Stáineas.
Domhnall Mac Cárthaigh.
Earnán Altún.
Sir Seamus Craig, Ridire, M.D.
Liam Thrift.
Eoin Mac Neill.
Liam Mag Aonghusa.

Padraic Ó Máille.
Seosamh Ó Faioleacháin.
Seoirse Mac Niocaill.
Fionán Ó Loingsigh.
Seamus Ó Cruadhlaoidh.
Cristóir Ó Broin.
Caoimhghín Ó hUigín.
Próinsias Bulfin.
Seamus Ó Dóláin.
Próinsias Mag Aonghusa.
Eamon Ó Dúgáin.
Peadar Ó hAodha.
Seamus Ó Murchadha.
Seosamh Mac Giolla Bhrighde.
Liam Mac Sioghaird.
Tomás Ó Domhnaill.
Earnán de Blaghd.
Uinseann de Faioite.
Seamus de Burca.

Níl.

Tomás de Nóglá.
Riobárd Ó Deaghaidh.
Darghal Fíges.
Tomás Mac Foin.
Seoirse Ghabhain Uí Dhubhthaigh.
Liam Ó Briain.

Tomás Ó Conaill.
Aodh Ó Cúilacháin.
Liam Ó Daimhín.
Cathal Ó Seanáin.
Domhnall Ó Ceallacháin.

Motion declared carried.

Question put.

The Dáil divided: Tá, 39; Níl, 11.

Tá.

Liam T. Mac Cosgair.
Donchadh Ó Guaire.
Gearoid Ó Suileabháin.
Seán Ó Maolruaidh.
Seán Ó Duinnín.
Micheál Ó hAonghusa.
Seán Ó hAodha.
Seamus Breathnach.
Deasamhúhain Mac Gearailt.
Micheál de Duram.
Seán Mac Garaidh.
Risteárd Ó Maolchatha.
Pilib Mac Cosgair.
Micheál de Stáineas.
Domhnall Mac Cárthaigh.
Earnán Altún.
Sir Seamus Craig, Ridire, M.D.
Liam Thrift.
Eoin Mac Neill.
Liam Mag Aonghusa.

Padraic Ó Máille.
Seosamh Ó Faioleacháin.
Seoirse Mac Niocaill.
Fionán Ó Loingsigh.
Seamus Ó Cruadhlaoidh.
Cristóir Ó Broin.
Caoimhghín Ó hUigín.
Próinsias Bulfin.
Seamus Ó Dóláin.
Próinsias Mag Aonghusa.
Eamon Ó Dúgáin.
Peadar Ó hAodha.
Seamus Ó Murchadha.
Seosamh Mac Giolla Bhrighde.
Liam Mac Sioghaird.
Tomás Ó Domhnaill.
Earnán de Blaghd.
Uinseann de Faioite.
Seamus de Burca.

Nil.

Tomás de Nógla.
 Riobárd Ó Deaghaidh.
 Darghal Fíges.
 Tomás Mac Eoin.
 Seoirse Ghabhain Uí Dhubhthaigh.
 Liam Ó Briain.

Tomás Ó Conaill.
 Aodh Ó Cúlacháin.
 Liam Ó Daimhín.
 Cathal Ó Seanáin.
 Domhnall Ó Ceallacháin.

Motion declared carried.

THE DAIL IN COMMITTEE.

PUBLIC SAFETY (EMERGENCY POWERS) BILL, 1923—THIRD STAGE RESUMED.

Motion made and question put:
 "That Section 6, as amended, stand part of the Bill."

Agreed.

AN CEANN COMHAIRLE: Amendment 63 is not moved.

Sections 7 and 8 agreed to.

SECTION 9.

"Every person who shall be charged before a District Justice with having in his possession or on his premises with his knowledge or conveying in any manner anything which may reasonably be suspected of being stolen or unlawfully obtained, and shall not give an account to the satisfaction of such District Justice of the manner in which he came by the same shall be guilty of an offence under this Act, and shall be liable to a punishment not exceeding twelve months' imprisonment with or without hard labour."

Amendment by Mr. GAVAN DUFFY:
 "To delete the words 'given an account to the satisfaction of such District Justice of the manner in which he came by the same,' and to insert therefor the words 'adduce satisfactory evidence that he had no intention to defraud.'"

Mr. GAVAN DUFFY: The Section, as drawn, appears to me to be somewhat vaguely expressed. I may say that this is one of the few sections of the Bill with which I have sympathy, understanding as I do that it is directed against looters, and I appreciate the propriety in present circumstances of putting upon the looter, to some extent, the onus of proving his innocence instead of following the ordinary method. But the actual wording which has been adopted will leave the law very

uncertain, and if it is necessary in normal times that the law should be certain, it is much more necessary when exceptional powers are being taken that those powers should be very clearly defined. The Dáil is asked to agree that every person charged before a Justice with having in his possession or on his premises property which may reasonably be suspected of having been stolen, or unlawfully obtained, should give an account to the satisfaction of the Justice of the manner in which he came by the same. A subsequent amendment proposes that the prosecutor should prove certain essentials first, before the alleged delinquent is called upon to prove anything. I have, however, been obliged to put this amendment in before the next one because it deals with wording which comes earlier in the Section than the words after which I propose to put the other amendment. To say that a District Justice must be satisfied as to how A.B. came by certain property is to say a thing which is very vague and indefinite. One District Justice might interpret "satisfaction" in one way, another in another. The District Justice, be his intentions what they may, is not given any precise direction by the law as to what his duty in the matter may be.

"The satisfaction of the District Justice." The Dáil will see at once that that is a very wide term and capable of varied interpretations. I ask the Dáil and Ministers to agree that it is not reasonable that the matter should be left in language so loose as that. The Dáil will see at once that the wording of the Section as drawn lends itself to a further objection. I do not know if it is intended that the alleged delinquent should have the power to appeal. He certainly should have, because it is desirable that the general law in these matters should be departed from as little as possible, and the stolen property will already have been reconveyed to its owner under Section 7, so that when Section 9, with which we are now

[Mr. Gavan Duffy.]

dealing comes into operation, the only question will be whether or not the alleged delinquent is the guilty party.

There can, I think, be no reason why there should not be an appeal from the decision of the District Justice as in other cases. The wording adopted by the mover of the measure seems to me to go a long way to take away that appeal because the appellant is likely to be told that the Appeal Judge cannot inquire as to the "satisfaction" of the District Justice. That is a subjective matter, in the same kind of way as if a matter is left to the discretion of a court, and there can be no appeal from that discretion. I want to put in words which will make the matter of decision objective. I fancy it will be agreed that precisely the same result is obtained by saying that the alleged delinquent must adduce satisfactory evidence that he had no intention to defraud. The question on appeal, as to whether or not the evidence which he adduced proved what he wished it to prove, to entitle him to get off, is an objective question upon which a court would be entitled to pronounce. I think that will be clear to anybody who has compared the two phrases. Therefore, for those two reasons, which I need not go into at any great length, I greatly hope that the amendment will be accepted to the objectionable wording, that the alternative will be accepted—first, because the original wording leaving the matter to the satisfaction of the District Justice is clearly too vague for a punitive law, and secondly, if there be, as I submit there should be, a right of appeal, the test upon the appeal should depend on some such subjective matter as the character of the evidence adduced, rather than upon the District Justice's opinion of the evidence given.

Mr. O'HIGGINS: The wording of this Section is taken from the Dublin Police Act, and I submit if the wording is bad, the Deputy's amendment does not improve it; it does not improve it even from the point of view of the argument which he has himself adduced in support of the amendment. It is objected that the present wording leaves the matter subjective—"shall not give an account to the satisfaction of such District Justice"—and that in the Appeal Court they could not inquire into the question of whether the District Justice was satis-

fied or not. The use, in the amendment, of the words "satisfactory evidence," is open to the same objection. "The evidence is to be satisfactory." Satisfactory to whom? Satisfactory to the District Justice? I am not disposed to accept the amendment. The present wording is contained in an Act which has been in force for a long time, and which has been found perfectly satisfactory. It has passed the test of our own experts in drafting it, and I see no reason to change it. Even on the grounds that Deputy Duffy has himself advanced, the amendment is not an improvement on the Bill.

Mr. GAVAN DUFFY: There is no use in my arguing a somewhat technical matter of this kind against the majority of the Dáil, and I will confine myself to pointing out that the Minister's answer does not deal with the objection. There is a real distinction between the subjective thing which is the satisfaction of a particular District Justice and the objective thing which is satisfactory evidence.

Mr. O'HIGGINS: Evidence satisfactory to whom?

Mr. GAVAN DUFFY: Satisfactory *in se*. The Appeal Court will judge. Under the Dublin Police Act there is an appeal. I invite the attention of the Attorney-General to the considerable difficulties that have occurred in deciding whether or not there is an appeal in statutes passed subsequently, where the statute itself says nothing about an appeal. That particular matter runs right through the Act in the penal sections. The question as to whether or not it is intended the District Justice's decision should be final is not made clear, and if an appeal is intended I suggest it is very desirable that it should be made quite clear by express wording.

Professor MAGENNIS: Does Deputy Duffy suggest that a District Justice is a peculiar type of magistrate who would be satisfied by something that falls short of satisfactory evidence? The distinction that he has drawn between what is satisfactory to a particular individual and the more objective thing called evidence which would be deemed to be satisfactory to every right-minded and dispassionate man is undoubtedly a valid and well-known distinction. But to apply it here, I suggest it would be necessary to show that the words "to the satisfac-

tion of the District Justice " include, and could be permitted to include, some sort of subjective appeal, something which would influence the mind of the particular District Justice and would, of its nature, be inoperative with regard to any other hearer of the case. Those words " to the satisfaction of " occur in many statutes, and are always deemed to mean precisely what Deputy Duffy says in more explicit language. The magistrate is to be satisfied by evidence, and the evidence which is good for him would be good for any other person presiding over a tribunal. It seems to me that while, from the point of view of a metaphysician, the words of Deputy Gavan Duffy are better, yet through old-established customs and practices, as there is no ambiguity in the phrase which he seeks to amend, possession being nine-tenths of the law, the phrase ought to stand.

Amendment put and declared lost.

MR. GAVAN DUFFY: I beg to move.

To add at the end of the section the following words:—" Provided that, before any person charged under this section shall be required to adduce evidence on his own behalf, it shall be incumbent on the prosecutor to prove (a) that the property, the subject of the charge, is of the value of £10 at the least; (b) that there is reasonable ground for believing that property to have been taken by way of loot or plunder since the 1st day of July, 1922; and (c) that the said property is, or has at some time since the time when it is believed to have been taken, been in the possession or on the premises of the person charged."

This amendment is a further attempt to improve the section, which I say is one with which I have sympathy. Now, there are three distinct things there which I seek to have put upon the prosecutor as matter to be proved before ever he calls upon the defendant to go into the witness-box. First of all, that the property is worth £10 at least. Why? Because we do not want people to be harassed with trivial prosecutions on allegations of loot. We do not want, and I hope the Dáil does not want, to see this exceptional procedure adopted at all except in cases of a certain seriousness. I should myself have been inclined to put a higher figure than £10, but I put £10 in the hope that I might the more easily get some assent to the proposal. I think

it must be generally agreed that for trivial items of loot it is not worth while to be putting into force a section of this kind. Secondly, one does not want to infringe upon the very proper and necessary principle that the onus must be on the prosecutor, except in the least possible degree, and even when you are charging an assumed looter there is a risk that the charge may be unsustainable. I want to guard against the possibility that your ordinary thief, who steals because he is starving, may be prosecuted under this section. As the sole justification for the section is the necessity of dealing with loot by special means, I ask that the prosecutor should be compelled to prove that there is, in fact, reasonable ground for believing that the property in question had been looted since the civil war began. Lastly, it is also right that the prosecution should prove affirmatively that the man whom they charged with loot has in fact at some time since the property disappeared been in possession of it or had it on his premises. If those three items are conceded, I speak for myself in saying that I am quite in sympathy with the proposals that the looter properly so-called shall be made to discharge the onus which then properly will lie upon him. If those concessions are not made, then I think the section is objectionable, because it is too liable to be used against persons who are not looters properly so-called, and it does not put upon the prosecutor the onus which I think ought to be undoubtedly his in the first instance.

MR. O'HIGGINS: It is not proposed to accept the amendment. The Deputy says that if the amendment were accepted he would be in complete sympathy with the section. But in fact the amendment conflicts rather radically with the whole tenour and purpose of the section by shifting the onus of proof quite definitely to the prosecutor, whereas the object of the section is, where there is suspicion that a particular piece of property is not properly in the possession of the person, that such person should be asked to state in what manner he came by it, and he should be asked to give a satisfactory account of his possession of that article of property to the District Justice. It is, as I say, only an extension to the country of something that has been for a long time contained in the Dublin Police Acts. The Deputy's amendment demands that there should be a

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limit to the value—that below a minimum of £10 there should be no action taken under this section. I do not know what the Deputy's standards are, but it seems to me that £9 worth of loot is not exactly a trivial matter even in those days when loot has been carried on in the grand manner, and I see no sufficient reason for accepting a value limit at all, whether £10 or £9 or £8 or £5. It is a time when there has been a good deal of indiscriminate looting. An article worth £2 or £3 taken from a poor man's house is not a trifling matter, and it certainly is not so trifling that the State ought not to take the fullest measures and the strongest steps to trace it, and, if possible, to restore it. Now, the next thing asked in the amendment is that the prosecution should show that there is a reasonable ground for thinking that that property has been taken by loot, plundered since July, 1922. In that portion of the amendment there are two grounds asked—reasonable grounds for satisfying that the property was taken by loot, and a time limit back to the 1st of July last year. We would not accept that portion of the amendment, because reasonable ground for belief falls little short of proof. If the prosecution has to show in Court that there are reasonable grounds for belief, and if it is able to show it, then there is little reason why proceedings should not be taken under the existing code—under the Larceny Acts.

Mr. GAVAN DUFFY: My point was reasonable grounds for belief that the property in question was looted, not by the particular person accused, but that in fact it was looted property.

Mr. O'HIGGINS: The Deputy should visualise the situation in the country that we are attempting to cope with. In certain counties a great many residences were burned. Somehow it became known before they were burned that the burning was about to take place, and they were broken into and indiscriminately looted. This section is meant to cover the case where a man is found to be in possession of property out of all proportion to his means and to his circumstances of life, and it asks that in a case of that kind that it should be possible to demand that he give a reasonable account of how he came by such property. I gave instances here in the Dáil

of people whose houses were visited, people in a humble way of life—cottiers—and costly candlesticks, trousers presses, gilt mirrors and articles of that kind were found in the houses. We should have power in a case of extreme suspicion to ask how that property came into the possession of the holder. That is what that section does. I do not feel that the limitations which the Deputy asks for in his amendment are proper or ought to be inserted, least of all the one dated back to July, 1922. If there is to be a time limit it ought not to be July, 1922. In fact, there was probably more loot in the first six months of last year, before we came to the decision to grapple with the situation, than since July, 1922. Whole areas in the country were effectively in the occupation of the Irregulars. They were supreme there. Their will, supported by their guns, was unchallenged, and areas like Tipperary and certain areas in Connaught suffered very severely during that period, and there was a great deal of property stolen. There can be no question of placing the time limit back to the 1st July last year, and I see no sufficient reason for accepting a time limit at all. It would be impossible, if one came across a case of a man in very humble circumstances in possession of a particularly elaborate piece of property—perhaps a piano or, as I say, one of these gilt mirrors—even approximately to place the date at which that was looted or stolen, while there would be, of course, a reasonable suspicion that it had been looted. It is setting too big a task to a prosecution to say that they must advance reasonable grounds for saying that it was stolen since the 1st July last. I am afraid I do not quite catch the drift of (c) in the amendment, because action of this kind would be taken only against a person in whose possession property was actually found. I think I would ask the Deputy to give me some further enlightenment on the effect of (c), and in what way it supplements the section I am moving.

Mr. GAVAN DUFFY: My impression is, "having in his possession looted property" might refer to any period of time. I may be wrong. If that is so, it should be incumbent on the prosecution, in the first instance, to shift the onus that is on them by proving the fact that the stolen property has been in the possession of the man accused.

Mr. O'HIGGINS: "Every person who shall be charged before a District Justice with having in his possession or on his premises with his knowledge, or conveying in any manner any article suspected of being stolen or unlawfully obtained." I think that is sufficiently clear. The prosecution would be taken only against a person who would be charged either with having in his possession or on his premises an article supposed to have been stolen, or with conveying such article to some other person. I do not think that (c) strengthens or improves the section.

Mr. GAVAN DUFFY: If the Minister's interpretation of the section is right, I submit that a man can only be charged with conveying if he is conveying at the time of arrest. That is not what it means. If he conveyed a week or a month or two ago, surely the section would hit him, and if that be so, why give a different parsing to the words "having in his possession"?

Amendment put and declared lost.

Mr. GAVAN DUFFY: I propose Amendment 66, which is as follows:—

To add a sub-section as follows:—

"Evidence given by a person charged under this section shall not be capable of being used against him in any other criminal proceedings."

I propose this amendment for the purpose of having it placed on record. It is useless to propose an amendment of this kind for any other purpose in view of the attitude taken by the Minister or by his official advisers.

Mr. O'HIGGINS: I am advised that this amendment ought not to be accepted; that there is no reason why a statement made by a person who is asked to account for the possession of property under suspicious circumstances should not be used in subsequent legal proceedings or prosecution that may be taken against him. I am informed that there is not sufficient reason for the insertion of any such provision, and the Attorney-General, who is responsible for criminal prosecutions, advises against acceptance.

Mr. FITZGIBBON: It does seem a little hard that a prisoner who in the ordinary course would not be called on to open his mouth until the case has been proved against him, should now, under this new form of putting the onus of proving his own innocence on him, be obliged or compelled to go into the wit-

ness-box to clear himself of a charge before a *prima facie* case has been made against him, and should be liable, as the result of the cross-examination to which he is submitted, to be prosecuted upon some other charge upon evidence which he has been compelled to give, and which in ordinary circumstances he would not be compelled to give, or even permitted to give, because, according to the law as it stands at present, the prisoner can neither give evidence on his own behalf nor be summoned to give evidence against himself. He is entitled to stay there and to say to the prosecutor, "Prove your case." He cannot be made to go into the box and be submitted to cross-examination except under this new method of putting on him the onus of proving his innocence, and, in endeavouring to prove his innocence of the particular charge against him he lays himself, under cross-examination, open to some other charge upon which he can be indicted on his own evidence. That seems to me to be going very much too far. He is not only compelled to prove his innocence under this Bill, but his very endeavour to do so may result in a prosecution against him on some other charge. I wonder would the Minister, between this and the next stage, reconsider his attitude in regard to this amendment.

Mr. O'HIGGINS: I wonder if I might put a hypothetical case to the Deputy. A person is found in possession of a piano. He is asked to account to the District Justice for the manner in which he came by the article, and he gives a certain account. He says, perhaps, that he received that from some relative, and that is accepted, and that particular prosecution is passed. In the course of time the fact becomes clear that the piano was not presented in that way by a relative. Is the suggestion that no subsequent proceedings could be taken in which could be used a false statement, or a statement which, in course of time, is proved to be false, and which was made by a person in whose possession the property is found?

Mr. GAVAN DUFFY: The statement is that no statements made by a person who is compelled to go into the box can fairly be used against him in any proceedings afterwards.

Mr. O'HIGGINS: That proves my

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point that a person would be free to make statements in the proceedings provided for by the section which could not be called in question subsequently or used in any way in subsequent proceedings, even though those statements are found to be false.

Mr. GAVAN DUFFY: With the greatest respect to the Minister, I say he could be indicted for perjury. The man could not again be charged for the same offence even under the law as it stands in this Bill.

Mr. FITZGIBBON: The instance I give is rather in the direction of what I had in mind—namely, that the prisoner is charged with having stolen property in his possession, and he proves to the satisfaction of the Court, and truly proves, that it was given to or purchased by him at some date at some particular place. It is then discovered that he was in that place on that date, and then he can be indicted for some other crime, and the evidence which he has given can be used against him to prove that he was in that place for the purpose of the other crime, and to prevent him from giving evidence of an alibi or something of that sort, and saving themselves the trouble of proving that he was there. It is the use of that kind of evidence in that way that seems to me unjust, because you get the foundation, not of a new crime but the destruction of the defence against the new crime by the evidence given by him to clear himself.

Professor MAGENNIS: What weighs with the Deputies obviously is the tradition of British law, the administration of law. It does seem rather hard that a man should be forced to give evidence where under ordinary circumstances he would have been left at liberty to hold his tongue and force the prosecutors to make the case against him. On the other hand, this is emergency legislation, meant to deal with abnormal cases under abnormal conditions, and the tradition to which the Deputies rightly appeal was a tradition in favour of justice and fair dealing, but it was justice tempered with humanitarianism. The question now is whether we should apply the flavouring of humanity in that particular case, or give the strictest of strict justice to the type of malefactor against whom this Bill is aimed.

Mr. GAVAN DUFFY: Only common justice.

Professor MAGENNIS: Only common justice?

Mr. GAVAN DUFFY: Yes.

Professor MAGENNIS: Not the strictest of strict justice. I consider natural justice and the strictest of strict justice to be identical.

Mr. GAVAN DUFFY: They provide a contrast.

Professor MAGENNIS: Perhaps Deputy Gavan Duffy will make his case, and then I shall finish. My difficulty is, the Deputy accuses me of contradicting myself in effect, and without his assistance I cannot see that. I say when in ordinary administration an accused person taking up the position of a witness is not obliged to commit himself, I say when you apply that doctrine, which is a reasonable humane doctrine, to the type of case for which this legislation is meant, you are qualifying it with an element of humanitarianism. Does Deputy Gavan Duffy dispute that? I hold in those special circumstances that that element of qualification should be omitted. I think, however, the two Deputies have in their own minds a case they have not stated. I can conceive two different positions here. "A" volunteers to give evidence. He is a prisoner; the ordinary operation of the law of evidence would not be used against him in a further case. Now we pass to the emergency legislation, and we will assume this is an Act, and that a man is being charged before a Court or District Justice with having in his possession or on his premises, with his knowledge, something reasonably suspect of being stolen or being unlawfully obtained. He is called upon to give a satisfactory account of how he came to be in possession of this. Suppose he is found guilty, that is one case. Suppose he proves his innocence, that is another case. Supposing, in proving his innocence of having stolen something, he allows something to transpire which is capable of being employed against him as evidence later. Deputy FitzGibbon considers that that is objectionable. Suppose, however, the evidence he brought forward did not clear him of the charge under Section 9, and that notwithstanding the evidence he gives he is found

guilty of being in possession of loot. Now, I would like the Deputy to address himself to this question. Is the evidence not fairly to be used against him on a further charge of further guilt? Why are we to have such soft hearts for criminals in this particular conjuncture? I have some sympathy with a man who, when he is charged with the offence of being in the possession of loot, not only having loot in his house, clears himself of that charge and escapes imprisonment for twelve months, with or without hard labour, by evidence he adduces in his own favour.

If that evidence would have the effect of involving him in further punishment, having escaped by virtue of the present punishment, I could have some sympathy with him. But suppose, as I have already put it, that, notwithstanding the evidence he has adduced, and, I assume it to be true, he is found guilty of this charge, I see no reason why, because he is found guilty of this charge, he should not be found guilty of other charges. In other words, I think if a man is found to be possessed of loot, and renders himself liable under this emergency legislation to this punishment, he *ipso facto* divests himself of any sympathy or to any application in that special sense of mercy that I have used on the part of the District Justice.

Mr. GAVAN DUFFY: I did not intend to say anything in favour of my own amendment, because I feel it is utterly useless to argue any of these matters in this Bill. Surely it is plain to anybody who considers the matter that it is not fair or ordinary justice to compel a man to go into the witness-box, on pain of being sent to prison, because he is suspected of having a piano or a chicken, and when you have got him there to prove himself completely innocent of the charge, counsel for the prosecution cross-examines him, and in the course of cross-examination discovers he is guilty of aiding or abetting, assisting, or in any way encouraging the commission of one of the numerous offences set out in this Schedule, then you prosecute him with a view to flogging him or with a view to sending him to prison under Schedule 1, or under any one of the other sections of the Bill. You put him in the position that he himself must go into the witness-box and expose himself to your cross-examination, and having extracted from him proof of

his own innocence upon a charge, you will be entitled, according to this law, if it becomes a law, to say, "Now that we have it out of your own mouth that you did something else, we will rely upon your *ipsissima verba* to prove you guilty of the charge." What is his answer? He has got none. If the Minister thinks that fair, then he should have the same clause in every one of the previous sections dealing with arson, or else say, in connection with every offence, that each person shall be presumed to be guilty until he proves himself innocent. If that is the law, let it be stated openly. I cannot see any reason why you should not have an identical provision, or sub-section, in every clause of the Bill imposing a penalty. If it be right to make a man go into the witness-box where he will be subject to cross-examination just because he is suspected of having looted property, and then to use what he says in the witness-box, where he is under compulsion, against him on any conceivable charge, just because it is called loot, then it is equally right to make him go into the witness-box first before you prove anything at all against him on any other charge whatsoever. If I am wrong, I should be very much interested to know where the subtle distinction lies between what is right in one case and not in the other.

Mr. O'HIGGINS: The Deputy who has just sat down seems to have a natural sympathy with artful dodgers. He also seems to have the idea that people charged with certain offences set out in the Schedule to this Bill ought to be given the greatest possible latitude for evading the law, and that if in the course of proving ownership of a particular article of furniture the person reveals the fact that he is guilty of any or all of these offences, there should be no prosecution upon such evidence. We cannot accept that. The Deputy said Deputy Magennis was contradicting himself. There seems to be an epidemic of this sort. The Deputy's amendment is to the effect that no statements made by a person under this section shall be used against him in any subsequent criminal prosecution, but in the next breath he says he may be prosecuted for perjury. There seems to be some conflict there.

Mr. GAVAN DUFFY: Yes; in your section.

Mr. O'HIGGINS: No, in your amendment. If the amendment is accepted it would not be open to prosecute for perjury in respect of persons under the section.

Mr. GAVAN DUFFY: Then I take it we are to accept this rather startling proposition—I merely asked that it be noted for record—that the Ministerial view is that any man charged upon suspicion is a man who ought to be presumed guilty until he proves his innocence. Any man charged on suspicion under this section will be presumed to be guilty until he proves his innocence; ergo any man charged upon suspicion of an offence, under another section, should likewise be presumed to be guilty until he proves his innocence. I challenge the Minister to put that plainly into the Bill at its next stage.

Professor MAGENNIS: I am sure Deputy Gavan Duffy would glory in the result if the Ministry were to write themselves down as hopeless imbeciles. That is the usual trick of the *nisi prius* performer. Why is the doctrine of Section 9 to be made law universally? This section deals with the commission of one particular form of crime which has become very prevalent in the country of late. One man loots a house and takes possession of the loot before another man burns it. "A B" is charged with being in possession of property reasonably suspected of being looted, we know very well what these words connote. We know very well what the people living in the district mean by an expression of this sort: "That is my piano, that is my mirror, or that is my armchair, and I recognise it." How are you, in the special circumstances which prevail in the district where looting was prevalent recently, and arson following on the looting which preceded it—how are you to prove by witnesses who will not come forward, as they used to in the ordinary course, these things in view of the fact that we have recently the evidence of Captain McGarry that he could establish certain things only that the witnesses dare not, for fear of their lives, come into Court to give evidence? When these are the regnant circumstances of the times, how are the ends of justice to be met? Let a man who has property deemed to be loot in his possession show either of two things—that it is not in his possession as loot, or

that it came into his possession in some way that left him innocent, in view of this emergency legislation.

Mr. GAVAN DUFFY: I rise to a point of order. We have already dealt in two previous amendments with the matter to which the Deputy is now addressing himself. I submit, with all respect, that the matter that was before the Dáil, and is still before it, is whether or not a prosecutor is entitled to use, on a subsequent trial, evidence given by a prisoner in a previous trial under this sub-section, and not the question whether the machinery provided by the section is correct.

Professor MAGENNIS: The point under discussion is Deputy Gavan Duffy's amendment, and the egregious thing which he alleges, by way of argument, in support of it. I submit that that is the subject which is under discussion—Deputy Gavan Duffy's proposed amendment in the interests of humanity, justice, fair play, and all the fine things for which there would be applause outside. I am entitled to show that the purpose of this Bill, and particularly of this section, would be defeated by an amendment of this type if it were made operative. When the onus is put upon the man charged to show that he does not come under this section, in his effort to clear himself he may make it obvious that he is guilty of some other offence. According to Deputy Gavan Duffy, the law is to be applied to him as it used to be in the case of a dog. The dog was allowed one bite, and somehow this man is to be allowed one offence. The State would never have found out that he was a guilty man only that he happened to find it necessary, in his own behalf, to inform them of the fact, and because in his own interest, in his own defence, he informs the State of the fact that he is guilty of such and such an offence, the State is now asked to say to him, "Because you have so informed us, you may go free." We hear a lot about childishness and puerilities, but surely that argument is to expect us to declare, in favour of this Bill, that it is something of emergency legislation called for by a particularly objectionable state of affairs regnant in the country, and then to turn around and make it ordinary procedure of ordinary normal, quiet, law-abiding times.

Mr. MILROY: Deputy Gavan Duffy's attitude may be explained by the fact

that he does not wish to see "a rift in the lute."

Amendment put and negatived.

Motion made and question put: "That Section 9 stand part of the Bill."

Agreed.

SECTION 10.

Amendment 67 not moved.

Motion made and question put: "That Section 10 stand part of the Bill."

Agreed.

SECTION 11.

(1) If and whenever an Executive Minister shall satisfy a District Justice that there is reasonable ground for suspecting that any sum of money standing to the credit of any person in the books of any bank or similar institution is, or represents, or is directly or indirectly derived from

(a) any stolen property or funds, or

(b) any public funds or funds which ought to be in the custody or under the control of a Minister or a Government Department,

the District Justice shall, notwithstanding that no notice of such application has been given to the person in whose name such sum of money is standing in the books aforesaid or to any other person, order that such sum of money shall be transferred to the Minister for Finance.

(2) An order of a District Justice under this section shall operate to vest in the Minister for Finance as from the time of the service of a copy of the order on the bank or institution in whose books the sum of money aforesaid is standing, all money which at the time of such service is standing in such books to the credit of the person aforesaid.

(3) Whenever any sum of money becomes vested in the Minister for Finance by virtue of an order under this section, the Minister for Finance shall give public notice by advertisement or otherwise of such vesting, and unless within a time to be limited by such notice (not being less than one month) or such extended time as the Minister for Finance shall allow, some person proves to the satisfaction of the Minister for Finance that such sum of money belongs to him, and is not and does not represent and is not directly or indirectly derived from

(a) any stolen property or funds, or

(b) any public funds or funds which

ought to be in the custody or under the control of a Minister or a Government Department, such sum of money shall be forfeited to the Minister for Finance.

(4) All money forfeited to the Minister for Finance under this section shall, after payment thereof of the costs and expenses incurred in the recovery thereof, be applied by the Minister for Finance in recouping the person from whom such money was directly or indirectly stolen or the fund to which such money directly or indirectly belongs.

Mr. DUGGAN: I beg to move the following amendment:—To delete the section, and to substitute therefor the following section:—

(1) If and whenever an Executive Minister shall satisfy a District Justice that there is reasonable ground for suspecting that any sum of money standing to the credit of any person in the books of any bank or similar institution is, or represents, or is directly or indirectly derived from

(a) any stolen property or funds; or

(b) any public funds or funds which ought to be in the custody or under the control of a Minister or a Government Department, the District Justice shall by order prohibit any transfer of or other dealing with such sum of money or any part thereof.

(2) Whenever an order is made by a District Justice under this section prohibiting the dealing with any sum of money, the Minister for Finance shall give public notice by advertisement or otherwise of such prohibition, and unless within a time to be limited by such notice (not being less than one month) or such extended time as the Minister for Finance shall allow, some person proves to the satisfaction of the Minister for Finance that such sum of money belongs to him and is not and does not represent and is not directly or indirectly derived from

(a) any stolen property or funds; or

(b) any public funds or funds which ought to be in the custody or under the control of a Minister or a Government Department, the Minister for Finance shall certify in writing that such sum of money is forfeited to the Minister for Finance.

(3) If within such time or extended time as is mentioned in the foregoing

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sub-section any person proves to the satisfaction of the Minister for Finance the matters mentioned in the foregoing sub-section, the Minister for Finance shall certify in writing that the order made by the District Justice under this section in respect of such sum of money may be discharged, and upon production of such certificate to a District Justice such District Justice shall discharge such order.

(4) A certificate given by the Minister for Finance under this section certifying the forfeiture of any sum of money shall operate to vest in the Minister for Finance, as from the time of the production of such certificate to the bank or institution in whose books the sum of money aforesaid is standing, the whole of such sum of money.

(5) All money forfeited to the Minister for Finance under this section shall, after payment thereof of the costs and expenses incurred in the recovery thereof, be applied by the Minister for Finance in recouping the person from whom such money was directly or indirectly stolen or the fund to which such money directly or indirectly belongs.

The effect of the amendment is that money can only be forfeited on the certificate of the Minister for Finance. In the clause it is provided that, on the certificate or order of the District Justice, the money shall be transferred to the Minister for Finance. The effect of the amendment is that the order of the District Justice will only have the effect of holding up the money, so that it could not be finally forfeited without the certificate of the Minister for Finance.

Mr. FITZGIBBON: I have put down some amendments to the Clause as it originally stood, and they will substantially fit in with the newly-drafted Clause. The object of them is to get the District Justice out of the matter altogether, and for this reason. The great charge always brought forward against Judges of all ranks, and particularly against those of the lower ranks in the Judicial hierarchy, in the past was that they were the tools, and very often the willing tools, of the Executive of the day. You have set up a system of District Justices which I have heard from various parts of the country is working very well, because it has the confidence

of the people. I fear that if this section were passed in the form in which it is drawn you would bring upon these very Justices, who are now doing well, the very charge that used to be brought against their predecessors, that in certain cases they are nothing but the tools of the Executive. I am quite certain that when the framers of this Bill put in the beginning of this section that it should be the duty of the Executive Minister to satisfy the District Justice that there was reasonable ground for suspecting that money standing to the credit of any person in a bank represented directly or indirectly money derived from stolen property, their object was to interpose, between the Executive and the subject, the action of a "Judicial Officer." That, I think, was a very high-minded and proper attitude for them to take up, but I am asking them to delete the "Judicial Officer," because on reflection I think they will see themselves that he performs no Judicial office at all; he merely registers the will of a particular Executive Minister, and for this reason he has no right to hear the other side. He has no right to cross-examine the Executive Minister who makes the case before him, and therefore he will, in fact, merely register the will of the Executive Minister. The Executive Minister will come before him with a statutory declaration, affidavit or report, or whatever the proper procedure may be, and the District Justice will read it, and it will be his duty then to make the order asked for by the Minister. There is no appeal to the District Justice. If that order is accurate, if anyone wants to challenge it, it is to the Minister they must go. They do not come back to the "Judicial Officer." The Minister merely appears before him and goes through what, in the ordinary Police Courts, would be the swearing of an information, and the order is made accordingly and is issued at once. If District Justices are compelled to do that they will be held up through the country as merely the tools of the Executive, and I ask the Minister not to put that upon them. The amendment that I put forward does not embarrass the Minister at all; it merely enables the Executive Minister to make an order himself without going through the form of applying to the District Justices. It is the merest form in the circumstances, and therefore the amendment that I

move is to leave out the words "satisfy a District Justice," and simply say that if and whenever an Executive Minister shall be satisfied that there is reasonable ground for suspecting that the money is stolen money, he may make an order himself, and then, when he has made the order, there shall be the usual advertisements as to appeal, and the appeal shall come before the Minister for Finance as the section as it stands provides.

All that I want to do is to try and get your new Judges out of the unfortunate position of being merely the registering officers of the will of the Executive Minister. I do not want to interfere in any way with the powers of the Executive to confiscate stolen money any way they please, but I do beseech them to keep the judicial administration out of what is really Executive action. If the Judge really had any duty to perform I would welcome it, but it is because he must act *ex parte*—upon the statement of one side only—that I think the Minister who calls upon him to make the order ought to be empowered to make the order himself without going through the form of getting the District Justices to countersign it. When I saw the newly-drafted section I handed in amendments, applying my amendments, 69 and 70, to the section as newly drafted.

Mr. O'HIGGINS: Deputy FitzGibbon's suggestions with regard to this section have been very carefully considered, and I am advised that it would be undesirable to delete the reference to the District Justice in the first portion of Deputy Duggan's amendment. There is a judicial function involved; there is a discretion which ought to rest with someone other than the Executive Minister of granting or withholding an injunction. The reference further down to the District Justice we will be prepared to reconsider, and we would be prepared to agree with the Deputy and to meet him on the point that the Executive act of forfeiture ought to be the act of the Minister. But I submit that in the first section the procedure involved is very much the same as the granting of an injunction by a Court on *prima facie* evidence.

"(1) If and whenever an Executive Minister shall satisfy a District Justice that there is reasonable ground for suspecting that any sum of money standing to the credit of any person in the books of any bank or similar institution is, or

represents, or is directly or indirectly derived from

(a) any stolen property or funds; or

(b) any public funds or funds which ought to be in the custody or under the control of a Minister or a Government Department, the District Justice shall by order prohibit any transfer of or other dealing with such sum of money or any part thereof."

The Deputy, I think, indicates the view that is very much the same as the granting of an injunction on an *ex parte* representation. My advisers are of opinion that there is a proper function there in the first portion of the amendment for a District Justice to discharge. We are prepared to reconsider that portion of the amendment which places the actual forfeiture on the District Justice rather than on the Minister.

Mr. FITZGIBBON: The forfeiture is not in the District Justice in the new section. In the old section it was. In the new section it is in the Minister for Finance. My reason for saying that this differs from the granting of an injunction on *prima facie* evidence is this: An application is made to a Judge on *prima facie* evidence for an injunction, which he grants *ex parte* to the next day or until notice can be served upon the other side to come in and discharge it. But he discharges it. It is merely granted to preserve property for the moment, until the other side can be brought in, when he hears and discharges his own order. An *ex parte* injunction is in all urgent cases invariably granted, without any hesitation, because it is only granted until the following day, or perhaps for 48 hours, until the other side has time to be brought in. Once the District Justice has made the order he is *functus officio*. No one ever comes near him again. His order lasts till the end of time, not until an opportunity has been given to the other side to be heard, and he must make the order upon the declaration by the Minister, because he is bound to accept the declaration of the Minister. No District Justice who had a statutory declaration before him by a Minister that he had reasonable grounds for believing such property was stolen could for a moment refuse such an order. It is for that reason I suggest that he is not in the same position as the Judge who grants an *ex parte* injunction, which he may discharge

[Mr. FitzGibbon.] himself the next day. He is in substance the mere formal tool of the Minister who applied to him to make the order.

Mr. O'HIGGINS: I think the Deputy is, perhaps, overstating the case when he says if an official of the Ministry of Finance were to make representations to the District Justice to the effect that there was reasonable ground for suspecting that a particular sum of money represented stolen property, that the District Justice would have no alternative but to grant the order. The amended section reads:—

"If and whenever an Executive Minister"—which, in fact, means an official of his Department—"shall satisfy a District Justice that there is reasonable grounds for suspecting," etc.

I have too high an opinion of the District Justices to believe that if they were not satisfied that there was a reasonable suspicion that they would still grant the order that was sought by the Ministry.

Mr. FITZGIBBON: I do not think they would. I have the same opinion of them.

Mr. O'HIGGINS: There is therefore something to show to the District Justice.

Mr. FITZGIBBON: If I might interrupt, I would say that I have too high an opinion of Executive Ministers to think that they would send forward a case to the District Justice without good grounds.

Mr. O'HIGGINS: Nicely said, sir. The Deputy's contention is that there is no judicial function in fact—that if such a representation is made, the District Justice is the merest automaton. I think it right to have a check, and that a person in a judicial office must at least be satisfied that there is reasonable ground for suspicion in regard to those funds before an injunction is granted closing down on them or transferring them temporarily to the Minister for Finance. It may be said that it is not a very substantial check, and that the tendency would be for the District Justices to accept, with the minimum of critical examination, the grounds put forward by the Finance Ministry or any other Ministry. But it is a judicial function. To completely eliminate the District Justice and state that a Minister or Ministry could close

down on any property or any funds on suspicion would be rather an extreme course to take. There should at least be an examination of *prima facie* evidence by some judicial person and some person who can approach the matter with a detached view. The District Justice is the best person we could find for that purpose. If I might add, the word "shall" in Sub-section (1), Section 11, while it seems mandatory, is of course qualified by "if and whenever an Executive Minister shall satisfy a District Justice."

Amendment put and agreed to.

Motion made and question put: "That the new section stand part of the Bill."

Agreed.

Mr. FITZGIBBON: Amendments 69 and 70 were to the section which has been deleted, and they, of course, fall.

Amendments 69, 70 and 71 not moved.

SECTION 12.

Amendments 72 and 73 not moved.

Motion made and question put: "That Section 12 stand part of the Bill."

Agreed.

SECTION 13.

Amendment 74 not moved.

Motion made and question put: "That Section 13 stand part of the Bill."

Agreed.

SECTION 14.

Motion made and question put: "That Section 14 stand part of the Bill."

Agreed.

SECTION 15.

Amendment 75 not moved.

Motion made and question put: "That Section 15 stand part of the Bill."

Agreed.

SECTION 16.

Amendments 76, 77 and 78 not moved.

Motion made and question put: "That Section 16 stand part of the Bill."

Agreed.

SECTION 17.

(1) This Act may be cited as the Public Safety (Emergency Powers) Act, 1923.

(2) This Act shall continue in force for six months after the passing thereof, and shall then expire.

• Amendment 79 not moved.

Mr. GAVAN DUFFY: I move Amendment 80, which is designed to ensure that this Bill shall be submitted to a referendum before it becomes operative. The amendment reads:—

In Sub-section (2) to insert after the word "Act," line 26, the words "shall be submitted by referendum to the decision of the people and shall require the assent of a majority of the votes recorded on such referendum before it shall become operative; it."

The motive for the amendment is this. In this Bill the Executive Council is proposing drastically to amend the Constitution not in favour of liberty, but against it. I hold that no Executive Council, however powerful in this Dáil, has any moral right to uproot the Constitution passed last November unless they are certain and can prove beyond yea or nay that in so doing they have the assent of the Irish people. It may be that a majority of the electors would vote in favour of this Bill. I emphatically believe that a majority would vote very decisively against it. But if the Ministry believe, as they profess to believe, and as they claim, that they are carrying out the will of the people, of which we have heard so much, they must be the very first to welcome an amendment which will give them a magnificent opportunity of showing that the people are solid behind them. I apprehend that the people who supported the Ministry throughout the more difficult times will be found, when they are consulted, to declare that they emphatically dissent from this Bill as being the wrong remedy for the present state of affairs, and as being designed not to bring about peace, but to bring about further turmoil. If I am wrong the Ministry can prove it very easily by accepting the amendment.

Let the Dáil consider how, in fact, it is proposed radically to alter the Constitution passed here. Can it be said radical alterations should be passed without the assent of the people? No one can suggest that this Dáil was elected to amend a Constitution which did not exist when

the Dáil was elected. It is proposed to do away with *habeas corpus* in the case of these prisoners. It is proposed to do away with the Article in the Constitution which declares that judicial power shall be exercised and justice administered in the public Courts, and to substitute the back chamber of a Minister, in which he receives reports from his agents, for the public Courts of this country. It is proposed to overrule the emphatic Article of the Constitution which declares that extraordinary Courts shall not be established. It is proposed to do away with that first principle of criminal law whereby the onus is always laid upon the prosecution in the first instance. It may be that the people of Ireland are so disgusted with the proceedings of the last twelve months that they will tell the Ministry that they are right. It may be, but they are entitled to be consulted and to be asked their opinion before you commit them to so drastic an amendment of the Constitution and so emphatic an annulment of many parts of the Constitution as this Bill provides. None of us was elected to this Dáil to pass the present measure; none of us was elected radically to change the Constitution. Ministers are quite entitled to say that the only way in which they can find it possible to deal with the present situation is to pass such a Bill as this. They are entitled to say that if that is their conviction, but they are aware that there are other ways in which the matter might be approached. They are aware that the people are not unanimously behind them on this measure, and I put it to them that it is their duty to make certain whether or not the people approve of the measure before forcing it into law with a majority not elected for any such purpose. It is one special way of dealing with the present difficulties—some of us think an exceedingly bad way. Why should it be forced upon the country before the country has an opportunity of saying whether it is or not a method which it desires to see adopted? I may be told that there is urgency; let us consider that. Is there urgency? The Courts of this country have so far humiliated the law and the respect in which law should be held as to intimate that there will be a state of war in the technical sense in this country so long as the arms are not surrendered. That, I think, is a fair paraphrase of the judgments that have been given. Very well. If that be the case a month or

[Mr. Gavan Duffy.]

two months hence I presume it is probable that the Courts will still be refusing *habeas corpus*, and if a referendum took a month or six weeks the Ministry would not be greatly damnified by the delay. They would be in exactly the same legal position at the end of that time as they are now. I do not think that urgency can be pleaded. So long as Courts are going to justify the Executive in their present action on the ground of a state of war, urgency is not an answer to a demand for a referendum before you change the Constitution radically in those things which most closely affect the liberty of the subject. I suppose I shall be told, as I was told by a Deputy just now, that an amendment of this kind is electioneering. No doubt. If the Ministry are right in assuring us from every platform up and down the country that they, and they alone, represent the will of the people, the very best electioneering for them is to prove it by getting a magnificent majority on a referendum in favour of this Bill. They know, and every Deputy knows, the horror which this Bill has excited. Everybody knows it.

Mr. HENNESSY: I do not know it.

Mr. GAVAN DUFFY: Except the Deputy on my right.

Mr. McGARRY: I have not heard about it either.

Mr. GAVAN DUFFY: Those who do not know it will discover it at the forthcoming General Election. People are perfectly entitled to their views, however insane, on the best way of dealing with the present situation. But if your views require that you should uproot the Constitution passed by yourselves a few months ago in the middle of a civil war—passed at a time when everything that has happened could have been foreseen—if your views require such amendments as that to the Constitution, I submit that it is the clear duty of the Ministry and of the Ministerial majority to see to it that before such amendments are placed upon the Statute Book to disgrace our Constitution, that the people should have the right to say yea or nay to the question: Is this the way in which you wish this problem to be dealt with?

Mr. O'HIGGINS: The Deputy is always on the side of the angels; always a defender of high constitutional principles.

Mr. GAVAN DUFFY: That is more than I can say for the Minister.

Mr. O'HIGGINS: Champion of liberty of the individual. No doubt he feels the blood of the signers of the Bill of Rights boiling in his veins. We have a certain responsibility to the people, and we have put a clear, plain interpretation on that for the last year. In a couple of months' time we will go to the people and ask whether we have discharged our trust in the manner in which they wished us to discharge it, and the people will decide. We are not greatly troubled about that prospect. We have not begun to lose any sleep about it. If the people decide to give a mandate to others than those who have held it for the last ten or twelve months, it will be simply one more proof of their sovereignty which has been vindicated—which was challenged, and which has been vindicated. Now, as to the Bill. I am not aware that there is any clamour or anxiety in the country for the release of 12,000 or 13,000 men in view of the fact that arms and explosives are secreted throughout the country. I think the people understand that to hold any of the prisoners it is necessary to get powers to hold all, and to use judgment and discretion and caution in the matter of any releases. Neither have I found throughout the country that there is any protest against the proposal to use against the crimes of arson and robbery with violence the most effective means, to use a familiar phrase. The people have a right not to be robbed; they have a right not to have their houses burned; and they have a right to demand that their Executive Government will take all possible steps to stamp out these two crimes, which menace all society, all stability and all prosperity. I have found through the country—and I have been through the country more than the Deputy—no feeling against this Bill, and no feeling against that particular Section of the Bill which Deputies here profess to make most cry about. If imprisonment is, as we believe, inadequate to check robbery with violence and arson, then the people demand that we will use whatever methods will check those crimes. Robbery under arms and arson, these may be said to be the main features of the Bill. There is another feature, the methods by which it is proposed to meet agrarian anarchy. Now, I have found a

very thorough appreciation through the country of the fact that agrarian anarchy cannot be met by prosecutions before a summary court for trespass; cannot be met by the law which was intended to meet mere cases of accidental or casual trespass. People realise that this particular form of anarchy requires very drastic treatment to check it and that you have to treat the cause. The cause is, and has been, greed, and you will only meet and beat that particular offence by setting off against the greed, against the desire for illicit gain, the rather certain prospect of loss if that line is adopted, that is the line of driving one's cattle into a neighbour's land and removing your neighbour's landmark. These are the main features of the Bill: the intention to hold those of the prisoners whom it is thought unsafe in the public interest to release; the intention to apply very special and very stringent penalties to robbery with arms and violence, and arson; and the intention to meet agrarian anarchy; the confiscation of one's neighbour's land, by confiscation of the trespassing stock that are driven in, in direct challenge to all that law, and to all those principles upon which civilised society rests.

AN CEANN COMHAIRLE resumed the Chair at this stage.

Mr. O'HIGGINS: We make no apologies to the Deputy for this Bill or to any Deputy and we made no apologies through the country. On the contrary we would feel that we should be apologetic through the country, to the people, if we had shirked or shrunk from taking all the steps which in our minds and in our own consciences we believe to be necessary to deal with the situation with which we have been confronted, and with which we are still confronted. There is no intention of accepting the Deputy's amendment, to submit this Bill to a Referendum. In a few months' time the people will decide on this and on other matters that have occurred within the last 12 months, and we are not afraid of that decision, and we are not worried about it. We will simply go honestly and in a responsible spirit before the people and state what the situation was and ask them to decide. As I say, if they decide against us and give a mandate to others than those who have been conducting their political affairs for the last 12 months, it will

simply be another proof of their sovereignty and we will not go out with arms or with petrol cans or land mines to challenge the people's will.

Amendment put and declared lost.

Amendment 81 not moved.

Motion made and question put: "That Section 17 stand part of the Bill."

Agreed.

SCHEDULE.

PART I.

1. An armed revolt against the Government of Saorstát Éireann.

2. Threatening, coercing, assaulting or attempting to threaten, coerce or assault any person in furtherance of any such revolt.

3. Destroying, damaging or removing or attempting to destroy, damage or remove any property in furtherance of any such revolt.

PART II.

1. Having possession without lawful authority of

(a) any lethal firearm or other weapon of any description from which any shot, bullet or other missile can be discharged; or

(b) any ammunition for any such firearm or weapon; or

(c) any grenade, bomb or other similar missile, whether capable of being used with any such firearm or weapon or not; or

(d) any land mine or other similar explosive machine; or

(e) any dynamite, gelignite or other explosive substance; or

(f) any component part or ingredient of any such article or substance aforesaid.

2. Having possession without lawful authority of any article of clothing, equipment or accoutrement or any arms or ammunition belonging or issued to any member of the military or police forces of Saorstát Éireann.

3. Putting on or assuming without authority the uniform or any part of the uniform of any branch of the military or police forces of Saorstát Éireann.

4. Assuming the name, designation or description of any rank, or of any member, of the military or police forces of Saorstát Éireann for the purpose of

doing or procuring to be done any act which the person assuming such name, designation or description would not by law be entitled to do or procure to be done of his own authority.

5. Wrongful entry on and retention of possession of land without colour or pretence of title or authority.

6. Robbery under arms; that is to say, robbing or attempting to rob while armed with any offensive weapon or instrument.

7. Arson; that is to say, unlawfully setting fire or attempting to set fire to any house or other building whatsoever, whether public or private.

8. Unlawfully injuring or destroying or attempting to injure or destroy any property whatsoever, including standing trees and crops

9. Interfering with or preventing, without lawful authority, the lawful occupation, use or enjoyment of any land or premises.

10. Illicit distillation, or having possession or control of any illicitly distilled spirits or any illicit still or any articles or materials for illicit distillation.

11. Selling or offering, exposing, or having for sale any illicitly distilled spirits.

12. Aiding, abetting, assisting in, or encouraging the commission of any of the offences mentioned in this Schedule, or helping in the concealment or escape of any person guilty of any such offence.

Amendment 82 not moved.

Mr. DUGGAN: I move:—

In paragraph 7, to delete the words "or other building whatsoever, whether public or private," and to insert in lieu thereof the words:

"factory, barn, haggard, workshop, or other building, or any agricultural property, food supplies for man or beast, or any other property of any nature or kind, movable or immovable, public or private, including standing trees and crops."

The object of the amendment is to provide a more extended definition of "arson." It is felt that it was not sufficiently clear in the Bill. I submit it is fitting that the Bill should apply to the burning or destruction of all the things mentioned.

Amendment put, and agreed to.

Mr. DUGGAN: I move Amendment 84.

In paragraph 8, to delete the words "property whatsoever," and to insert in lieu thereof the words:

"house, factory, barn, haggard, workshop, or other building, or any agricultural property, food supplies for man or beast, or any other property of any nature or kind, movable or immovable, public or private."

This amendment is in identical terms and refers to unlawfully injuring or attempting to injure or destroy any property.

Amendment put, and agreed to.

Amendment 85 not moved.

Amendment 86 not moved.

Motion: "That the Schedule, as amended, be the Schedule of the Bill," put, and agreed to.

THE PREAMBLE.

AN CEANN COMHAIRLE: Amendment 87 is out of order, as it has no relevancy to the Bill

The Preamble and Title of the Bill put, and agreed to.

DAIL RESUMES

Bill, with amendments, Reported.

AN CEANN COMHAIRLE: When is the next Stage to be taken?

Mr. O'HIGGINS: I would be anxious to take the Report Stage on Friday, and to that end I have made arrangements that amendments embodying the undertakings which I gave in the course of the passage of the Bill through Committee, would be handed in to-day. It is really a matter of the printing; if the Bill, as amended, could be printed in time for the Report Stage on Friday I would be glad.

AN CEANN COMHAIRLE: The Bill, as amended in Committee, will be in the hands of Deputies to-morrow evening about 4 o'clock.

Mr. JOHNSON: On a point of order, will it be in order to receive this Bill for Friday?

AN CEANN COMHAIRLE: It would be impossible to get the amendments in time, if four days' notice of amendments were given, naturally.

Mr. GAVAN DUFFY: I desire to say that in a Bill of this kind proper time should be given for amendments. There is no reason why the Bill should not be taken on Monday, which would give time. To take it on Friday would seem to be rushing the thing quite unnecessarily. The Bill is a very serious one, and Deputies should have the Bill in their hands, as passed in Committee, before being invited to put in amendments for the Report Stage.

Mr. BLYTHE: Is it a fact that the Standing Orders require four days' notice for amendments? The copy which I have dealing with amendments to motions, seems to contemplate that they shall be in, not later than 11 a.m. on the second preceding day. That is Standing Order 12. It does not seem to apply to Bills, but I cannot find any other Standing Order dealing with the matter.

AN CEANN COMHAIRLE: Amendments will have to reach us before 11 a.m. on Wednesday to be strictly in order. If they were accepted later they would not be in the hands of Deputies until Friday.

Mr. GAVAN DUFFY: Perhaps it would be fairer to the minority in the Dáil if the Bill were not taken until Monday.

Mr. O'HIGGINS: Well, Sir, I have stated the position. The Bill is an urgent one, and the question of its consideration next week in the Seanad depends largely on its being taken on Friday, if at all possible, and I think that Deputies should realise that a Bill having been in their hands for 10 days or a fortnight, and having been very thoroughly considered in Committee, it is not unreasonable to ask that the interval as between Monday and Friday should be sufficient between the Committee and the Report Stage.

Mr. JOHNSON: On a point of order, I would draw attention to the Order, which says that notice of motion must be handed in on the fourth preceding day. Monday would be the fourth preceding day, so that it is impossible to have the motion in time to take the next stage on Friday.

AN CEANN COMHAIRLE: The Standing Order bearing upon the particular matter is 74, of the book in the Deputies hand, "When a Bill has been returned from a Special Committee, or

from the Dáil sitting in Committee, notice shall be given of a motion to receive the Bill for final consideration." That is the notice which the Minister is giving now. The notice requires strictly the usual notice which is given on motions and, strictly, therefore, it is late. Is there objection to taking the notice.

Mr. JOHNSON: Yes.

Mr. O'HIGGINS: Very good. I must move that we take it on Monday next.

Report Stage ordered for next Monday.

COMMITTEE ON FINANCE.

ESTIMATES FOR PUBLIC SERVICES.

MINISTRY OF INDUSTRY AND COMMERCE.

Mr. BLYTHE: I move:

"That a sum not exceeding £193,445, be granted to complete the sum necessary to defray the Charge which will come in course of payment during the year ending on the 31st day of March, 1924, for the Salaries and Expenses of the Ministry of Industry and Commerce, including Umpire and Courts of Referees; for Contributions to the Unemployment Fund and to Special Schemes; for Payments to Associations under the Unemployment Insurance Acts; for advances to Workpeople under the Labour Exchanges Acts, 1919; for Fees and Expenses of Medical Referees under the Workmen's Compensation Acts, 1906; for Fees to Certifying Surgeons under the Factory and Workshops Act, 1901; for Fees and Expenses under the Trade Board Act, 1909 and 1918; for Fees and Expenses under the Electricity (Supply) Act, 1919, and the Gas Regulation Act, 1920; and for Contributions towards the expenses of an Irish Stall at the *Daily Mirror* Fashion Fair." (£102,000 had been voted on account.)

Mr. JOHNSON: I beg to move that the consideration of this Vote be deferred so as to allow of details of Sub-head (a) to be presented to the Dáil. It is now, I suppose, some three months since the Estimate was drawn up, and no details have been presented regarding the Sub-head (a), giving particulars of "Salaries, Wages and Allowances, £180,000," and I think it is due to the Committee that such particulars should be given. There may have been difficulties some months ago in drawing up these statements, but, in the meantime, no doubt, men have

[Mr. Johnson.]
been detailed to draw up such particulars, and I think they ought to be presented to the Dáil so that we should understand what we are voting. I beg to move accordingly.

CATHAL O'SHANNON: I second.

ASSISTANT MINISTER for INDUSTRY and COMMERCE (Mr. J. B. Whelehan): When the Estimates were being prepared the organisation of the Ministry was not completed, and it could not possibly have been foreseen what offices would be necessary and what salaries would, accordingly, be required for officials. I have, however, available at present, particulars of all salaries, wages and allowances, and I shall be very glad to have these circulated to the Dáil, but it has only been possible to have these compiled very recently. As a matter of fact, the Vote on account of the Ministry is now exhausted, and if it will meet Deputy Johnson's point that I should have these particulars circulated, I will undertake to have them circulated as quickly as they can be turned out.

AN CEANN COMHAIRLE: They are not ready now?

Mr. WHELEHAN: No; they are not ready at the moment. You understand, I have all the figures and all the particulars as to staff, salaries, wages and allowances, but one copy only.

Mr. JOHNSON: How soon could this be circulated?

Mr. WHELEHAN: As soon as we possibly can have them graphed.

AN CEANN COMHAIRLE: We could not have these particulars circulated for an hour or an hour and a half, which would be too late.

Mr. JOHNSON: I am sure the Minister was not expecting that this particular Estimate would be taken to-night, and, therefore, he would not be disappointed at not having to deal with it.

Mr. WHELEHAN: I have been expecting this Vote to come up for the past month, the Deputy will understand.

Mr. DAVIN: I think it would be undesirable that the Vote should be passed this evening without the information that

has been asked for by Deputy Johnson, and for that reason, and for that reason alone, I think it is desirable that the Vote should be deferred until we are in possession of the information asked for.

Mr. WHELEHAN: I quite appreciate that, and that Deputies are perfectly entitled to ask for all the particulars under that head (a). I have no objection to having it left over until to-morrow.

AN CEANN COMHAIRLE: Shall we take that as an agreement, without putting the motion?

Agreed.

Motion withdrawn accordingly.

TRANSPORT DEPARTMENT.

Mr. BLYTHE: I move "That a sum not exceeding ten thousand seven hundred and seventy-eight pounds (£10,778) be granted to complete the sum necessary to defray the charge which will come in course of payment during the year ending 31st March, 1924, for the salaries and expenses of the Transport Department of the Ministry of Industry and Commerce, including certain payments in connection with railways." (£6,000 had been already voted on account).

Mr. HUGHES: I do not know would I be in order in raising the question on this Vote regarding the facilities that are offered to traders and other people since the coming into being of the new Customs regulations. I have been informed by various traders and others—

AN CEANN COMHAIRLE: I do not know if this Estimate has anything to do with that.

Mr. DAVIN: It has.

Mr. HUGHES: Perhaps it is the previous one.

Mr. WHELEHAN: In so far as it refers to any question of the Railway Companies, I think the Deputy is in order in raising it.

AN CEANN COMHAIRLE: The question of facilities afforded by the Railway Companies.

Mr. HUGHES: Yes, and Steamboat Companies connected with them as well.

AN CEANN COMHAIRLE: Do steamboats come into this?

Mr. HUGHES: It is all transport.

AN CEANN COMHAIRLE: I want to get clear before we get on. This is railways, merely, is it?

Mr. WHELEHAN: Yes.

Mr. DAVIN: I suggest, in the case of Shipping Companies who are also Railway Companies, the question of Customs can come inside this Vote.

Mr. WHELEHAN: Quite right.

AN CEANN COMHAIRLE: I am quite able to appreciate that.

Mr. MILROY: My own impression is that if you have deferred Estimate 55 that all Estimates dealing with the Department ought to be deferred also for this reason. I hope I am in order in making the suggestion. What I wish to say is that before you come to deal with the particular items in an Estimate that the whole general survey of a Department ought to come under review before we come down to generalities and details, and I think if, under such an Estimate, such a discussion is at all in order it would come under No. 55 rather than under this sub-head or minor phases of the working of the Department. I certainly think, as I have said before, that this is one of the most vital phases of administration and it is hardly sufficient, I think, simply to discuss these things in detail without first having a general survey of the whole work of the Department. I think if No. 55 is to be deferred to a later date every matter that comes under this Department ought also to be deferred.

AN CEANN COMHAIRLE: That is the suggestion. Is that agreed on?

Mr. WHELEHAN: I have no doubt Deputy Milroy is very interested in the Estimate for the Ministry, and he has been good enough to give me notice that he is so interested. I can assure him that when the general vote of the Ministry comes up to-morrow he will have full facility for discussing it. I shall provide him with information on every possible subject that can be raised, and which I hope he will find quite satisfactory, but I think that we ought to proceed with the Vote, if the Dáil wishes.

Mr. JOHNSON: I support Deputy Milroy in his suggestion, inasmuch as

this Vote says quite distinctly that it is for the Transport Department of the Ministry of Industry and Commerce. It may well be that some of these items of salaries may have to do with the Transport Department; we do not know. We accept your assurance that it is not, but if we had the names, offices and salaries before us, we would understand exactly. At any rate there is an Assistant Secretary in this Department, and there may be a Secretary over the whole Department, whose policy might come under consideration, and, therefore, I think, as the Vote on this Department of the Ministry has to be considered to-morrow, Deputy Milroy's point is a good one.

Mr. MILROY: The point I wish to make is really a criticism, although a friendly criticism, of the way in which these Estimates are prepared. You have the Ministry of Industry and Commerce, then you have the Transport Department, and you have then the Marine Service, all phases of the one Department. Now, I contend that an opportunity should be given by which a comprehensive criticism and discussion of all the different phases of that Department should be in order.

AN CEANN COMHAIRLE: It will be in order on the Vote for the Ministry of Industry and Commerce.

Mr. MILROY: I assume, that would be the only occasion in which it would, but if we defer that and proceed with the Transport Department or the Marine Service Estimates, when we come to raise matters that arise out of these Estimates on the Ministry of Industry and Commerce, we may be informed that those things are already discussed, and that we must confine ourselves to the details in the particular Estimate. I think to defer this No. 55, and to proceed with the others, 56 and 57, is really putting the car before the horse, and would lead to confusion in the consideration of the working of the service and administration of this Department. I would certainly urge that if we defer 55 we ought also to defer this.

Mr. DAVIN: I suggest that the future organisation, or reorganisation, of this particular Department depends to a large extent, perhaps, on the policy of the Ministry, or any statement the Minister

[Mr. Davin.]

may have to make regarding the future of the railways. I think we are entitled, in view of the promises made many months ago, to hear from the Minister, or the Ministry, or the Executive Council, some statement regarding the present position of the railway companies, and their agreement or failure to agree regarding the grouping scheme, or the policy of the Government in spite of such a failure, if there has been a failure, and as to whether there will be a grouping up in the future of this Department, its enlargement or otherwise. For that reason, and by reason of the fact that it is a subordinate Department of the Ministry, the two Departments ought to be taken together, or one after the other.

Mr. WHELEHAN: I really had no intention of excluding Deputy Milroy and other Deputies from raising the question when the Vote comes under consideration. In order to save the time of the Dáil, if it is the general wish, I have no objection to the Estimates being left over.

AN CEANN COMHAIRLE: That is to say, that Estimates 55, 56, and 57 are to be left over until to-morrow.

Mr. DARRELL FIGGIS: They do really swing or hinge together.

CATHAL O'SHANNON: Will that also apply to Vote No. 31?

Mr. BLYTHE: As there is going to be a discussion on Estimate 55 to-morrow, and as it will actually range over the whole ground, we would be, to some extent, wasting time in discussing it now.

Progress to be reported.

DAIL RESUMES.

AN CEANN COMHAIRLE: It is reported from the Committee on Finance that Estimates 31, 53, 56, 57 have been deferred until to-morrow.

Agreed.

Mr. JOHNSON: Will the Minister then make a statement respecting the general policy of the Departments, more particularly with reference to the Railway policy?

Mr. WHELEHAN: I did purpose making such a statement this evening, but as we are taking the Estimate to-morrow, I presume that statement may be left over until then.

Mr. BLYTHE: I beg to move the adjournment until to-morrow, at 3 o'clock.

The Dáil adjourned at 6.50 p.m.

DAIL EIREANN.DE MAIRT, 17^{ADH} IÚL, 1923.

(Tuesday, 17th July, 1923.)

Cromadh ar obair an lae ar a 3.10 p.m. Bhí An Ceann Comhairle, Micheál O hAodha, sa Chathaoir.

CEIST—QUESTION.

[ORAL ANSWER.]

BALBRIGGAN SHOOTING.

CATHAL O SEANAIN (for **Tomas Mac Eoin**) asked the Minister for Finance when the £1,750 compensation which was awarded in March, 1921, to Mrs. Lawless, Balbriggan, for herself and children, in respect of the shooting of her husband will be paid.

MINISTER for LOCAL GOVERNMENT (**Mr. E. Blythe**) replying for the **Minister for Finance**: Payment in this case has already been made.

CATHAL O'SHANNON: When was payment made?

Mr. BLYTHE: On the 13th.

LAND LAW (COMMISSION) BILL, 1923.

(FROM THE SEANAD.)

LEASÚ ON SEANAD (AMENDMENT BY THE SEANAD).

To delete in Section 1, lines 22 and 23, the words "together with Part V. of that Act," and in line 26 to delete the words "Parts I., II., and IV. of that Act," and to substitute therefor the words "any subsequent Act now in force which is by its terms to be construed as one with the Land Purchase Acts."

Mr. BLYTHE (for **Minister for Agriculture**): I move: "That the Dáil agree with the Seanad in the said amendment."

Motion put and agreed to.

LEASÚ ON SEANAD (AMENDMENT BY THE SEANAD).

In Section 7 (1), line 27, to insert after the word "in" the words "or held in trust for," and in line 31, after the word "by" to insert the words "or for."

MINISTER for AGRICULTURE (**Mr. Hogan**): I move: "That the Dáil agree with the Seanad in the said amendment."

Motion put and agreed to.

AN CEANN COMHAIRLE: A message will be sent to the Seanad accordingly.

MONEY RESOLUTION.

AN CEANN COMHAIRLE: The Minister for Agriculture is in a difficulty in regard to a Money Resolution.

Mr. HOGAN: The Report Stage of the Land Bill will be on the Orders of the Day for to-morrow, and in connection with the Bill it will be necessary to introduce a new Money Resolution. Further money will have to be expended. The Resolution is quite simple. I am having it neo-styled now, and I could have it circulated in a short time. The Order Papers for to-morrow are printed, and if the Dáil would consent to take a copy of my Resolution to-day, it would facilitate us and enable us to get over the difficulty of re-printing the Orders of the Day. The Resolution is quite simple; it merely provides that further moneys in respect of one particular item in the Bill shall be appropriated by the Dáil.

CATHAL O'SHANNON: When does the Minister suggest taking the Resolution?

Mr. HOGAN: Perhaps it would be too much to expect the Dáil to take it this evening. If the Deputies are not willing to take it this evening, I suggest it could be taken to-morrow before the Report Stage. It can be circulated to-day.

CATHAL O'SHANNON: I do not think there would be any objection to having the Resolution taken this evening.

AN CEANN COMHAIRLE: The Order Paper for to-morrow is already printed, and the further Money Resolution which the Minister speaks of is not

[**AN CEANN COMHAIRLE.**] on it. What is needed is the consent of the Dáil to take the Resolution this evening or to-morrow, and to waive the point that it is not on the printed Orders.

Mr. HOGAN: I understand Deputy O'Shannon's suggestion is that it could be taken this evening. That would suit me.

CATHAL O'SHANNON: Yes, provided that time is given to the Deputies to see exactly what is in the Resolution.

ARMY PENSIONS BILL, 1923.

(FROM THE SEANAD.)

MOLA ÓN SEANAD (RECOMMENDATION BY THE SEANAD).

That the words "for Defence," in line 22, Section 2 (3), be deleted.

MINISTER for DEFENCE: (General Mulcahy): I desire to move: "That the Dáil agree with the Seanad in this recommendation." It is purely a question of deleting the words "for Defence." The word "Minister" is defined in another portion of the Bill.

AN CEANN COMHAIRLE: There are really two recommendations in regard to deleting the words "for Defence."

Mr. DARRELL FIGGIS: The matter I am about to raise is not of great importance, but it raises a matter that may affect subsequent Bills. When a Bill has been passed by the Dáil and sent to the Seanad, and when it returns from the Seanad, is it possible that the Dáil can move amendments again to that Bill, or is it to be construed that the Dáil has finally concluded with the Bill?

AN CEANN COMHAIRLE: Does the Deputy mean this Bill or the last Bill?

Mr. DARRELL FIGGIS: We are now dealing with the Army Pensions Bill, are we not?

AN CEANN COMHAIRLE: Yes.

Mr. DARRELL FIGGIS: We are dealing with the amendments from the Minister for Defence, as a Deputy of this Dáil, making certain changes in the Bill, and the point I am asking guidance on is, if a Bill has once left this Dáil and

gone to the Seanad and come back, will it be considered in order for other amendments to be considered and moved, or can only Seanad amendments be considered on that occasion?

AN CEANN COMHAIRLE: This is a special case of a Money Bill. The Army Pensions Bill was certified as a Money Bill. The Seanad could not, therefore, amend it. They could only make certain recommendations. When these recommendations come to us, if we agree with them we have to move amendments, and the amendments have accordingly to be made in the Dáil. That is the only possible procedure. With regard to what amendments can be moved, the only amendment that can be moved in this Dáil, when a Money Bill comes from the Seanad, is an amendment which is necessary to give effect to the recommendation of the Seanad, or the amendment which might be offered to the Seanad in connection with one of their recommendations, and which would need to be relevant to it, or a further consequential amendment. With regard to the general question of a Bill coming back from the Seanad with amendments, such as the Land Law Commission Bill, the Seanad in that case has power to amend the Bill. Amendments have been made to the Bill, and if we agree, the Bill becomes law as it finally passed the Seanad. We can, of course, partially agree, and suggest other amendments to the Bill ourselves, but they, too, would have to be relevant to the Seanad amendments or consequential.

Mr. JOHNSON: On a point of order, I think we are on No. 2.

AN CEANN COMHAIRLE: Yes.

Mr. JOHNSON: This is a motion of which notice was given, or at least notice was placed in the hands of the Deputies, last night. Is it in order to discuss it now?

AN CEANN COMHAIRLE: Is it the motion to agree with the Seanad in the said recommendation?

Mr. JOHNSON: Yes.

AN CEANN COMHAIRLE: I think so. The motion was received in time to be placed upon the Orders of the Day, and the Orders of the Day were distributed this morning.

Mr. JOHNSON: I suggest that this is a motion of which four days' notice should be given, and while it does not mean very much, perhaps, to this Dáil, one can see that a precedent may be made, and very important amendments to Bills might be made in the Seanad affecting the whole structure of the Bill, and in such a case Deputies ought to have sufficient notice to examine the implications of those amendments. The ordinary notice of motion should be given, and the Dáil should have sufficient notice of any amendments that are coming forward to enable them to give proper consideration to them. I submit that the form in which these amendments from the Seanad must come before the Dáil necessitates a regular period of notice before they can be discussed in the Dáil.

AN CEANN COMHAIRLE: The motion on the paper, "That the Dáil agree with the Seanad in the said recommendation," was received in time. The Standing Orders prescribe that the Deputies must get the Order Paper with the printed Agenda on the morning of the day to which the paper relates. In this case that has been done. Therefore this matter is in order. There is another question as to whether longer notice should not be given to me of motions dealing with recommendations or amendments from the Seanad, so that the motions could be circulated to Deputies, and the Deputies would have some days to consider the matter before they came on. I think that is a different question, and would have to be decided separately.

Mr. JOHNSON: This is not an amendment in the sense that an amendment to a Bill already before the Dáil might be considered an amendment. The Seanad has made certain amendments to a Bill, and the Bill comes with those amendments from the Seanad to the Dáil.

AN CEANN COMHAIRLE: Recommendations in this case.

Mr. JOHNSON: Recommendations in this case; but I am raising it here because of precedent that may be created. Undoubtedly the motion by the Minister for Defence was received by you in due time, but the motion which is now before the Dáil is not quite in the same position as an amendment to a Bill already before the Dáil. It may be of very grave im-

portance, and the Dáil should have an opportunity of discussing the effect of any amendment which the Seanad may make before being asked to come to a decision upon it. While I have no objection whatever to accepting this motion now, I want to call attention to the danger that we might find ourselves in at some future time if there were important and fundamental amendments to a Bill made in the Seanad, and the Dáil has not time to consider them before decisions are made.

Mr. HUGHES: Supposing the ordinary procedure had been followed in this case of notice of motion, would it appear on the Order Paper any earlier? If four days' notice was given, would we have it in our hands earlier? Does it make any difference?

AN CEANN COMHAIRLE: No, but I think I see Deputy Johnson's point now. If we take an example such as the previous Bill, which is better, I think, where an amendment has been made by the Seanad, under our Standing Orders we could put this amendment through all stages through which we put Bills—that is to say, we could take the fact that it is made by the Seanad as the introduction. We can read it a second time. We can go into Committee and amend it, and then we can have another stage on the motion that the Dáil agree with its own Committee on the amendment. In that way we would have sufficient discussion of any particular amendment, and if it is of a grave nature it gets all the stages which a section of the original Bill would get in the Dáil. Under present Standing Orders I think we could not do any more than that. I do not know if Deputy Johnson suggests that we should have a rule that amendments from the Seanad should be circulated to Deputies before they appear on the Order Paper with the motion for agreement.

Mr. JOHNSON: That is implied. I am only raising it now so that note may be taken of the point, because we can foresee rather important possibilities in this procedure.

AN CEANN COMHAIRLE: Yes.

Question: "That the Dáil agree with the Seanad in the said recommendation," put and agreed to.

General MULCAHY: I desire to move: "To delete the words 'for Defence,' line 22, Section 2 (3)."

Agreed.

General MULCAHY: I desire to move: "That the Dáil agree with the recommendation by the Seanad that the words 'for Defence,' in line 6, Section 5 (2), be deleted."

Agreed.

General MULCAHY: I desire to move. "That the words 'for Defence,' in line 6, Section 5 (2) be deleted."

Agreed.

General MULCAHY: I move: "That the Dáil agree with the recommendation by the Seanad, that the words 'any section,' paragraph 6, line 6, Second Schedule, second column be deleted, and that the words 'this section' be substituted therefor."

AN CEANN COMHAIRLE: That was an error in the Bill as it left the Dáil, but I thought it better that it should be formally corrected rather than corrected in the office.

General MULCAHY: The effect of this recommendation is that the paragraph in the Second Schedule now reads: "No allowance shall be payable under this section in any case in which any allowance was payable under any of the foregoing sections."

Question: "That the Dáil agree with the Seanad in the said recommendation," put and agreed to.

General MULCAHY: I desire to move: "To delete the words 'any section,' paragraph 6, line 6, Second Schedule, second column, and to substitute therefor the words 'this section.'"

Agreed.

General MULCAHY: I desire to move: "That the Dáil agree with the recommendation of the Seanad that the figure '3,' paragraph 6, line 2, Third Schedule, be deleted, and that the figure '4' be substituted therefor." This is just a misprint, where the wrong paragraph was obviously inserted.

Agreed.

General MULCAHY: I desire to move: "To delete the figure '3,' paragraph 6,

line 2, Third Schedule, and to substitute therefor the figure '4.'"

Agreed.

AN CEANN COMHAIRLE: A message will be sent to the Seanad that their recommendations have been accepted and the Bill amended accordingly.

[DAIL IN COMMITTEE.]

PREVENTION OF ELECTORAL ABUSES BILL, 1923.

SECTION 1.

CORRUPT PRACTICES.

(1) The expression "corrupt practices" as used in this Act means any of the offences stated in this section to be a corrupt practice, and any person who commits any of such offences shall be guilty of a corrupt practice.

(2) The following offences as more fully defined in the following sections of this Part of this Act shall be corrupt practices, that is to say:—

- (a) bribery,
- (b) personation,
- (c) treating,
- (d) undue influence.

(3) The following offences shall also be corrupt practices, that is to say:—

- (a) aiding, abetting, counselling or procuring the commission of the offence of personation,
- (b) knowingly publishing, before or during a Dáil or Seanad election, a false statement of the withdrawal of a candidate at such election for the purpose of promoting or procuring the election of another candidate.

Mr. BLYTHE: Section 1 is the existing law except that the publication of a false statement of the withdrawal of a candidate for the purpose of promoting or procuring the election of another candidate is made a corrupt practice.

Mr. JOHNSON: I beg to move: "In Sub-section (3), (b), lines 38 and 39, to delete all from the word 'for' to the word 'candidate' inclusive."

There is not, perhaps, a great deal in this point, but under the Proportional Representation elections a false statement which may be made regarding the withdrawal of a candidate may be just as false, just as harmful, although it may not be made for the pur-

pose of promoting or procuring the election of another candidate. You may have a rota of 10 or 12 names on a list, and someone may publish false statements that A.B. has withdrawn. Certainly the chances of the other 11 are increased by the withdrawal of one, but there is no special point towards any other individual candidate on the list. It seems that this phrase might apply quite satisfactorily to the elections under the old method, but it hardly fits the new method of Proportional Representation.

Mr. BLYTHE: I accept the amendment. I think it strengthens the Clause.

Amendment put and agreed to.

Question: "That Section 1 as amended stand part of the Bill," put and agreed to.

Mr. BLYTHE: Section 2 is practically the existing law except that there is a Clause preventing the inducing of voters to vote in a particular way. That was not necessary before the introduction of Proportional Representation. It is now necessary, otherwise it is the existing law.

AN CEANN COMHAIRLE: We had better take it section by section.

Question: "That Section 2 stand part of the Bill," put and agreed to.

Mr. BLYTHE: Sections 3, 4, and 5 are the existing law.

Sections 3, 4, and 5 put and agreed to.

Mr. BLYTHE: In Section 6 the penalties apply to summary jurisdiction, as it was thought that there would be great certainty of conviction than trial by indictment. It provides a minimum penalty for impersonation, and extends the qualification for registration to the Local Government Franchise.

Question: "That Section 6 stand part of the Bill," put and agreed to.

SECTION 7.

(1) Whenever an election court reports that any corrupt practice, other than treating or undue influence, has been proved to have been committed in reference to any election to either House of

the Oireachtas by or with the knowledge and consent of any candidate at such election, or that the offence of treating or undue influence has been proved to have been committed in reference to any such election as aforesaid by any candidate at such election, such candidate shall for ever be incapable of being elected to or being a member of the Oireachtas, and if he has been elected to either House of the Oireachtas, his election shall be void, and he shall also be subject to the same incapacities as if at the date of the report he had been convicted of a corrupt practice.

(2) Whenever an election court reports that any corrupt practice has been proved to have been committed in reference to an election to either House of the Oireachtas by any agent of a candidate at such election, such candidate shall, during a period of seven years from the date of the report, be incapable of being elected to or being a member of the Oireachtas and, if he has been elected to either House of the Oireachtas, his election shall be void.

Mr. O'CONNELL: I move in Subsection (1), line 16, to delete the words "other than treating or undue influence," and in lines 19 to 22 to delete all from the word "or" to the word "election," inclusive.

It seems to me there is no good reason for making an exception to this particular form of corrupt practice.

Mr. BLYTHE: I accept the amendment.

Amendment put and agreed to.

Question: "That Section 7, as amended, stand part of the Bill," put and agreed to.

Mr. BLYTHE: Section 8 is practically the existing law, except that there is not the maximum limit.

Question: "That Section 8 stand part of the Bill," put and agreed to.

Mr. BLYTHE: Section 9 is the existing law.

Question: "That Sections 9 and 10 stand part of the Bill," put and agreed to.

Mr. BLYTHE: Sections 11, 12, 13 and 14 are the existing law, except in

[Mr. Blythe.]

Section 12 the law extends to include a Referendum and the Seanad elections.

Sections 11, 12, 13, 14 and 15, put and agreed to.

SECTION 16.

(1) Whenever an Election Court reports that any illegal practice has been proved to have been committed in reference to an election to either House of the Oireachtas by or with the knowledge and consent of any candidate at such election, such candidate shall during a period of seven years from the date of the report be incapable of being elected to or being a member of the Oireachtas, and if he has been elected to either House of the Oireachtas his election shall be void, and he shall also be subject to the same incapacities as if at the date of the report he had been convicted of an illegal practice.

(2) Whenever an Election Court reports that any illegal practice has been proved to have been committed in reference to an election to either House of the Oireachtas by any agent of a candidate at such election, that candidate if such election was a Dáil election shall be incapable of being elected to or being a member of Dáil Eireann during the continuance of that Oireachtas and if such election was a Seanad election shall be incapable of being elected to or being a member of Seanad Eireann before the next triennial elections thereto and in either case if he has been elected his election shall be void.

Mr. JOHNSON: I beg to move as an amendment in Sub-section (2) to delete the words "if such election was a Dáil election" and also to delete the words "if such election was a Seanad election," and further to delete the words "in either case." The sub-section would then read if the amendments were made:—

"(2) Whenever an Election Court reports that any illegal practice has been proved to have been committed in reference to an election to either House of the Oireachtas by any agent of a candidate at such election that candidate shall be incapable of being elected to or being a member of Dáil Eireann during the continuance of that Oireachtas and

shall be incapable of being elected to or being a member of Seanad Eireann before the next triennial elections thereto, and if he has been elected his election shall be void."

The position of the agent seems to me to be immaterial. If it had been an election to the Dáil, then if there is any disqualification it ought to apply to the other House as well. To say that a man is unfit or incompetent to be a member of the Dáil because his agent has committed a corrupt practice within his knowledge, but that he may be a member of the Seanad is not complimentary to the Seanad, or *vice versa*.

Mr. BLYTHE: I accept the amendment.

Amendment put and agreed to.

Motion made and question put: "That Section 16 as amended stand part of the Bill."

Agreed.

Sections 17, 18, 19, 20 and 21 put and agreed to.

SECTION 22.

PREVENTION OF PERSONATION.

Mr. BLYTHE: I beg to move Section 22, which strengthens the existing law to some extent by forbidding the personating agent to leave the booth except with the permission of the Presiding Officer, and in compelling him to leave his notes and registers behind him when he does leave the booth.

Section 22 put and agreed.

SECTION 23.

(1) Whenever a referendum is demanded under Article 47 of the Constitution,

(a) Dáil Eireann may appoint a person to be Sponsor of the Bill, and

(b) If the referendum is demanded by a Resolution of Seanad Eireann, Seanad Eireann may appoint a person to be Challenger of the Bill, and

(c) if the referendum is demanded by a Petition, the Petitioners may, by any person or body of persons having or purporting to have authority to act for them, appoint a person to be Challenger of the Bill.

(2) The Sponsor and the Challenger shall each have the like power of appoint-

ing an agent in each constituency in Saorstát Éireann as is conferred by this Act or the Electoral Act, 1923 (No. of 1923) on a candidate at a Dáil election in such constituency and every provision of this Act of the Electoral Act, 1923, relating to the appointment of an agent by a candidate at a Dáil election shall apply to the appointment of agents by a Sponsor or a Challenger.

(3) Every agent appointed by a Sponsor or a Challenger shall have within the constituency for which he is appointed agent, the like powers of appointing sub-agents, personation agents and persons to be present at the counting of the votes as are conferred in that behalf by this Act of the Electoral Act, 1923, on a candidate or the agent of a candidate at a Dáil election in that constituency, and every provision of this Act or the Electoral Act, 1923, in relation to the appointment of such sub-agents, personation agents and other persons by any such candidate or his agent and the rights, powers and duties of such persons when so appointed shall apply to such persons when appointed by the agent of a Sponsor or Challenger.

(4) In this section the word " Bill " means the Bill which is the subject of the referendum.

Mr. BLYTHE: In this Section is provided the machinery whereby agents may be appointed to detect and prevent personation at a referendum. It is felt that owing to the prevalence that personation has attained in this country, some steps should be made to enlist people, who may be interested, either for or against any measure, as personating agents to prevent the actual result of the election being falsified, as it might be, by personation, which would be likely to occur if it simply depended on the Returning Officer acting. We know, in many cases, the Returning Officer would not have any great interest, and might not have even a partisan interest, which we would hope to utilise under this section, and that in most cases a Returning Officer would take no action whatever in the matter, no matter to what extent personation was going on. We feel that political parties or groups of individuals interested in a Bill might be able to appoint personating agents in their own area, with the result that you would secure a truer return.

Mr. JOHNSON: I beg to move Amendment No. 4, which is to delete the Section, and to substitute therefor the following new Section:—

" Whenever a Referendum is demanded under Section 47 of the Constitution, the Returning Officer in each constituency may appoint personation agents, and agents to attend the counting of the votes in the constituency, in such number as he thinks necessary, and every person so appointed shall enjoy the same rights and privileges and be subject to the same obligations as a person appointed for the like purpose by a candidate at a Dáil Election enjoys or is subject to."

The plan in the Bill seems to me to be unworkable and not fit for the purpose of achieving the object that the Referendum is supposed to achieve. The intention in the Bill is that whenever a Referendum is demanded the Dáil may appoint a person to be sponsor, and if the Referendum is demanded by a vote in the Seanad the Seanad may appoint the challenger. If the Referendum is demanded by a petition, and the petition is made by a person or a body of persons purporting to act for them they appoint a person to be the challenger of the Bill. Now, if you take paragraph (c) in the section the method there is by popular demand, and it is by a petition that the Referendum is called for; it is as likely as not that more than one body of persons, organised or unorganised, would be interested in the motion of the petition, but under the Bill the body of persons or the person so purporting to have authority to act shall appoint the person to be the challenger. There it seems to me you will have to have another election to decide from all these petitioners who is to be the challenger, or alternatively the Minister will have to decide for the petitioners who is to be the challenger. It may be a Bill in which the Minister is interested, and he is to select a person from among the many persons or bodies who may be interested in promoting the petition—he is to select who is to be the challenger. That, I think, is not satisfactory, and may be found to be unworkable.

The Dáil is to appoint a person to be a sponsor to the Bill. That is to say that a majority of the Dáil, which in its turn means the Government of the day, will appoint a person. That, I

[Mr. Johnson.]

think, is not satisfactory in view of the intentions of the Constitution regarding a Referendum. For the appointment of a sponsor for the Bill to be a political appointment, in effect, a Party appointment, for a Bill which may not be a Party Bill or may be a Party Bill, and that may not be a Bill promoted by a Party, seems to me to cause a difficulty. I think the proposal in the amendment fits the requirements of the case much better than the proposal in the Bill. The idea is to consider a Referendum rather as an official procedure, removing it as far as possible from Party conflict, and to treat the procedure of taking a Referendum as in all respects an official procedure. The Government or Minister of the day will have the appointment of the Returning Officer through the ordinary processes, and there is no good reason that I know of why that Returning Officer should not be authorised to appoint officials to act as personation agents and to have the powers of the personation agents which would be given in the case of an ordinary Dáil election. It is unlikely, judging by the experience of most countries, that in the case of a Referendum the same kind of machinery will be brought into operation. It is unlikely that anything like the full proportion of votes that we usually experience at a Dáil or Parliamentary election would be brought into effect at a Referendum, and the method of checking the voting by official personation agents would be quite effective enough, especially with the new powers that the Bill itself gives to the presiding officer, and I think it is much more in harmony with the general idea of a Referendum. I therefore beg to move my amendment.

Mr. BLYTHE: I am sorry I cannot accept the amendment. The proposal in the amendment was set down as one of the devices that was considered when the Bill was being drawn up. It was felt from our experience in the matter that such machinery as is proposed in the amendment would really result in an expenditure of money without any result. The Presiding Officer is an official person who gets a certain fee for acting as Presiding Officer in the booth. We know from past experience that Presiding Officers have really very seldom shown any inclination to do more than the mechanical work they are appointed to do, and

that they do not desire to see anything which they can well avoid seeing, so as not to incur displeasure on the part of anybody by pulling them up if necessary. The Presiding Officer is a man who, perhaps, holds the position of school teacher in an area. He is paid five guineas for his day, and all he wants to do is to earn his five guineas by incurring as little displeasure as possible. If a personation agent were appointed he would be simply duplicating the offices of the Presiding Officer and the Poll Clerk. An official personation agent would not, we believe, stop personation, and would not take any steps to do it. An official personation agent would simply be a third man put there at the cost of the State who would do no more than the Presiding Officer or the Poll Clerk to stop personation. As regards attending at the Court, as the personation agent would have power to do under this amendment if passed, there is not much use, we think, in asking the Returning Officer to appoint a person to watch himself. We feel that if there is to be any good at all in appointing personation agents they must not be appointed officially, and we must not simply create a certain amount of patronage that might be distributed by the Returning Officer. We think that this is a thing which should be done voluntarily by people interested for or against the Bill, and that that is the only possible way in which you could get any results from the appointment of personation agents. If the State were to make these appointments the cost to it would not be negligible. There will be something like five thousand polling stations in the country, and you would probably pay three guineas or so a day to the official personation agents. That would be over £15,000 paid for, I believe, practically no results at all. I quite agree that it might be better to change the provisions of the Bill so far as they affect the case where the Referendum is demanded by petition. It might be difficult to decide who ought to have the power of appointing personation agents on behalf of those opposed to the Bill. It is not to be taken that the Government of the day will appoint a representative of the Dáil in the matter. I think myself that if a Referendum were demanded on the Charitable Hospitals Bill that this Dáil would scarcely allow the Government to appoint a person to act on behalf of the

Dáil in the matter. If the Bill itself were a Party Bill, if it were a Government Bill that was being challenged, there is no reason why the Government in that case should not virtually appoint a person who would look after the Bill in the country. But where it was not a Party Bill, where it was some sort of measure as to which there was general agreement, there would be no reason in that case why there should not be a free vote of the Dáil. As a matter of fact, the Government of the day would probably be very anxious to appoint somebody who was outside their own group, to bring other interests and other organisations, if possible, into making the machinery as perfect as possible. It would be very difficult to be sure how this machinery that is proposed in the Bill will work. It is rather experimental. If it proves to be unnecessary, if there is no great amount of personation at Referenda, then I think the whole thing would automatically fall into disuse or almost complete disuse because of the fact that it is voluntary. If you appoint official personating agents, even if it were clear that there was no need for them and that little personation went on, there would be a sort of vested interest, and there would be a number of people in favour of continuing the whole business. When it is voluntary, when there will be no money going for it, I think if it proves to be unnecessary it will very quickly fall into disuse, and the actual provisions can then be repealed. It is a thing that is experimental, it is a thing that we feel, because of the great extent to which personation has been practised, that we ought to provide a penalty at this stage. We could imagine Bills that might affect a fairly wealthy interest, which would expend money in organising personation, and if no machinery existed except official machinery, I am very much afraid that the Referendum would not show the true feelings of the people on the matter. If by the penalties in this Bill dealing with personation at elections we were to eradicate the taste that has grown up for it, then, of course, there will not be much danger of it being resorted to at Referenda.

Mr. JOHNSON: Can the Minister say what the experience has been in other countries which have adopted the Referendum, whether the check upon corrupt

practices is generally carried out by private organisations or officials?

Mr. BLYTHE: My information is that so far as Referenda are concerned, what checking is done is done officially, and that there is no great personation there. We feel that there is a special danger here.

Amendment put and declared lost.

Mr. JOHNSON: I beg to move:—

In Sub-section (1) (c), lines 33 to 35, to delete all from the words "the Petitioners" to the word "them," inclusive, and to substitute therefor the words: "the members of Dáil Éireann or the members of Seanad Éireann upon whose demand the Bill was suspended in accordance with Article 47 of the Constitution may."

The purpose of the amendment is that the members of Dáil Éireann or the members of Seanad Éireann, upon whose demand the Bill was suspended in accordance with Article 47 of the Constitution, may appoint a person to be challenger of the Bill. The intention, it will be seen, is to limit the number of people whose opinion is to be found. As I have already said, there may be very great difficulty in selecting a challenger of the Bill from amongst a heterogeneous body of petitioners which may be collected from all parts of the country on all kinds of different issues by different means. The proposal in the amendment would give the right to appoint a challenger to those members of the Dáil or Seanad who demanded the suspension of the operation of the Bill pending a Referendum being taken. I think it is very practicable, and I hope the Minister will accept it.

Mr. BLYTHE: I will accept the amendment, because I see that the arrangement provided in the Bill would lead to difficulties.

Amendment agreed to.

Section 23, as amended, agreed to.

Mr. BLYTHE: Section 24 limits the number of persons who may attend the local Seanad count. This is necessary, as if there were 45 persons, one representing each candidate, it might not be possible to accommodate them.

Section 24 put and agreed to.

Mr. BLYTHE: Section 25 is the existing law, except that it gives a constable

[Mr. Blythe.]
power to arrest without being directed to do so.

Section 25 put and agreed to.

Mr. BLYTHE: Section 26 is the existing law, but where an arrest is made by direction of the Returning Officer, without malice, it will not involve penalties, even if it turns out not to have been justified.

Section 26 put and agreed to.

Mr. BLYTHE: Sections 27 to 37, inclusive, are the existing law.

Sections 27 to 37, inclusive, put and agreed to.

Mr. BLYTHE: Section 38 deals with the question of a member of the Dáil sitting without having sent in any return of election expenses. The common informer penalty has been removed, and the prosecution is at the suit of the Attorney-General.

Section 38 put and agreed to.

Section 39 put and agreed to.

Mr. BLYTHE: Section 40 provides that notice shall be published stating where a return of expenses can be inspected.

Section 40 put and agreed to.

Mr. BLYTHE: Section 41 gives power to Seanad candidates to appoint election agents.

Section 41 put and agreed to.

Mr. BLYTHE: Under Section 42 Seanad candidates are not given power to appoint personating agents. It was felt that if a Seanad candidate were, for instance, to appoint a personating agent or two in each of the 5,000 polling booths, that the appointments might carry him in and might lead to the election not being carried on on the lines it was desired that it should be conducted. There is also the fact that it would be impossible to allow each candidate to appoint a personating agent at the polling booth. There could not possibly be 45, as there would not be accommodation for more than three or four people in a number of places where the polling booths will be situated.

Mr. JOHNSON: What then is the in-

tention regarding the personation agents? Does this reference to agent include personating agent?

Mr. BLYTHE: Not personating agent. Sub-section (2) says: "Nothing in this Act or in the Electoral Act, 1923, shall be deemed to authorise a candidate at a Seanad election or the agent of any such candidate to appoint a deputy agent, sub-agent, or personation agent."

Mr. JOHNSON: Does not that nullify the argument the Minister has just used? If a candidate is a very wealthy man he can buy enough support by appointing personating agents in every constituency. I take it that a candidate who had support widely distributed through the country could appoint a personating agent in every constituency.

Mr. BLYTHE: It expressly says he shall not appoint them.

Mr. JOHNSON: Then what is the check upon personation in the case of a Seanad election?

Mr. BLYTHE: That is one of the difficulties we were up against, and we felt, on the whole, that we would let the section stand. There would be 45 candidates, and you could only have a few represented anywhere. You could not have the same sort of eagle eye on likely personators or supporters of a particular candidate who were being personated, as would be the case if there were a much smaller number of candidates. It was felt, as there will be a Dáil election before a Seanad election, that perhaps personation will have been given some check at the next election. There will be a smaller number of voters on the Seanad ticket, and there will be, we think, a great deal less interest in the Seanad election. There will be less likelihood of spontaneous personation, and in weighing up the matter it was thought that we might leave the election open, as one might say. We could only have imperfect representation of candidates for the purpose of checking personation. It would be undesirable to allow candidates to get influence over a wide area of country in which they might not be known at all by the mere device of appointing a special agent for each polling station and a personation agent for each booth. Personation was, we feel, not so likely at all in the case of the Seanad elections,

because, you see, everybody cannot go up. Nomination is only open to certain classes of people who are chosen either by the Dáil or by the Seanad, and we feel that personation was a great deal less likely than in the case of a Dáil election, or even in the case of a Referendum, and as we could not think of any special way to represent each candidate for the purpose of preventing personation, and as there were objections to appointing a large number of agents by candidates who might only be known in a small area, and would only have proper reason for the appointment of personation agents in a small area, it would be better to leave the matter in the Bill without any personation agent. It is not a matter on which I feel very strongly, but I think that, in the circumstances, what is in the Bill is, perhaps, the best thing to be done. I would be quite open to conviction on the matter.

Mr. JOHNSON: There is a good deal of force in what the Minister says about the difficulties, but the arguments he has used rather convince me that the suggestion made respecting the taking of a Referendum and the appointment of personation agents for a Referendum apply at least as strongly to a Seanad election. The Seanad election of the future will, I think, be taken seriously by some people. In twelve years' time the Seanad will be entirely an elected body, and their powers will be considerable. If there is any necessity at all for a check upon personation at any election, it seems to be required for a Seanad election at least as much as for the voting on a Referendum, and if the provisions regarding the appointment of personating agents at a Referendum are considered satisfactory by the Minister, I think that they ought to be made applicable to an election for the Seanad. More strongly, I think, the arguments the Minister has used point to the necessity of having official personation agents in the case of a Seanad election, persons selected, not by the Returning Officer, who may be a local man with, perhaps, local interests, but appointed, let us say, by the Minister himself. But the local influences that surround a Dáil election will not apply even to a Referendum or a Seanad election, it seems to me, and it seems that there will be no need at either of those two forms of election for personation agents, if they

are required at all. I think that there ought to be some means of checking and having somebody in the polling booth who would be responsible for noting the attempted personators. Perhaps the Minister will consider the wisdom of adding to this section some machinery or some adaptation of that which he has embodied with regard to the Referendum, or the proposal to appoint official personation agents for Seanad elections, which will only take place in every three years.

Mr. BLYTHE: To tell the truth, I was really to some extent keeping an open mind on the matter until I had heard what the Seanad itself had to say. There is just one thing about it that I did not mention. There will be a Police Constable or a Civic Guard in the booth, and he will have power in future to arrest on his own initiative if he thinks that personation is being done. By the time there is a Seanad election the members of the Civic Guard will probably have as good a knowledge of the people in their respective districts as they are likely to have, and a good deal more knowledge than they have at present, or than they will have when the General Election takes place. It is possible that to some extent they would act as official personation agents. Certainly they are the only people who would be likely to arrest on their own initiative the persons committing offences. The number of Seanad electors would be small, and it might be possible in some cases to combine polling stations. In that case the police could act more effectively. That is a matter that could be thought over, but we cannot find the means in the case of a Referendum, where an appeal is being dealt with, to line up people of two sides to find out what their interests are. If you get men each fighting for their own side in a sort of partisan spirit, which is the only way you will get people to act, in the case where you have 45 candidates one personation agent would probably be interested in one individual only.

I do not think that it would be a good thing certainly to allow the candidates for the Seanad election to appoint personation agents generally. I admit that it does seem a bit unfair to the Seanad candidates, and rather like discrimination against them. If, in the Seanad, there

[Mr. Blythe.]
should be any strong case made for it, I have really to a considerable extent an open mind in the matter.

Motion made and question put: "That Section 42 stand part of the Bill."

Agreed.

Mr. BLYTHE: Section 43 refers to the Corrupt and Illegal Practices list. It is the existing law. A list will be sent to each registration officer.

Motion made and question put: "That Section 43 stand part of the Bill."

Agreed.

Motion made and question put: "That Section 44 stand part of the Bill."

Agreed.

Sections 45 to 49, inclusive, put and agreed to.

SECTION 50.

(1) Each candidate at a Dáil election shall, subject to regulations to be from time to time made by the Postmaster-General, be entitled to send, free of any charge for postage, to each person on the register of electors for the constituency, one postal communication containing matter relating to the election only and not exceeding two ounces in weight.

(2) A candidate shall not be entitled to exercise the right of free postage conferred by this section before he is duly nominated unless he has given such security as may be required by the Postmaster-General for the payment of the postage on all communications sent by him under this section in case he does not eventually become nominated.

(3) For the purposes of this section, candidates who are, under the First Schedule to this Act, to be deemed to be joint candidates, shall be treated as a single candidate.

AN CEANN COMHAIRLE: Section 50 appears to be inconsistent with the Title of this Bill. If Section 50 were relevant to the subject matter of the Bill we could insert Section 50, amend the Title, and make a special report immediately, but I cannot, with the information at my disposal now, see any relevancy as between the Dáil candidates being entitled to certain free postage and the amending and consolidation of the law relating to corrupt practices.

Mr. JOHNSON: I think there are other reasons why the Title should be altered, because there are several sections of the Bill which deal with procedure rather than the prevention of abuses or corrupt practices, and consequently the Title might very well be altered to allow these sections to be embodied. The Minister is not, I think, committed to the Title.

Mr. BLYTHE: No.

Mr. JOHNSON: It is desirable that we should agree to amend the Bill in Committee, with a recommendation to alter the Title.

AN CEANN COMHAIRLE: The Title may be altered. With regard to questions of procedure at elections, they are, in a sense, relative to the prevention of corrupt practices, but what is the relevance of Section 50 to the Bill as it stands?

Mr. BLYTHE: I will tell you how it comes there. It arose in connection with the maximum limit of expenditure which existed until it was removed by this Bill. Previously a candidate could only expend a certain amount legally for the purpose of enabling him to circularise literature to each elector. He was given free postage. It acted practically as an extension of the limit—this particular Clause—and came under the law of corrupt practices then. As therefore the limit has been removed now, I can see that it does not, in the ordinary way, relate to corrupt practices at all, but it is a matter in which the substance of the section is necessary to be preserved. We could, of course, preserve it in a particular way if we chose, without specifically mentioning it, by not repealing the particular section which provides for it.

AN CEANN COMHAIRLE: Which Act is it in?

Mr. BLYTHE: The Representation of the People Act, 1918, Section 33, Sub-section (2), so that could simply exclude that.

Mr. JOHNSON: If that is the only way, I agree that it be done that way, but it is not the proper way.

Mr. BLYTHE: No.

Mr. JOHNSON: It is better to have the provision made clear in the Bill

itself. In the Title it is stated that it is an Act to amend and consolidate the law relating to the prevention of corrupt and illegal practices and other electoral abuses, and to make provision for the prevention of such practices and abuses at elections for Seanad Éireann and at a Referendum, and for other purposes connected therewith. A further sentence, such as "to make provision for facilitating the election," will surely be allowed to be included. That is really what it is for—to facilitate the taking of an election.

AN CEANN COMHAIRLE: I do not think the question is of any moment in this particular case, because everybody is agreed that this Section ought to go into the Bill; but we have to provide for general rules always, and we may have very acute questions arising as to the introduction of a section in a Bill which is not within the Title, and which could not be declared to be relevant to the general subject matter of the Bill, as introduced. In that case the ruling upon it will become more important, and I would not like to see a precedent created, even in regard to a Section about which we are agreed. The giving of certain postage facilities to Dáil candidates is really a question of facilitating the election. I do not think it is the same as preventing corrupt practices. I do not think that could be argued.

Mr. BLYTHE: No, except that it comes into the question of consolidating and amending the law relating to corrupt practices. It is a matter that had relation to the prevention of corrupt practices heretofore. Under this Bill, or in future, it certainly will not.

AN CEANN COMHAIRLE: What we have to keep before us is not so much a particular question, but the general implication of the ruling and precedent. It would, of course, be better to insert a Section in the Bill than simply to say that a particular Section or Sub-section of an Act is not repealed.

Mr. BLYTHE: Would it meet the difficulty if some such phrase as "providing postage facilities for candidates," is put in the Title?

Mr. DARRELL FIGGIS: Is there any structural difficulty in procedure in regard to amending the Title now, or recommending that the Title be amended

to read: "A Bill to prevent electoral abuses and to deal with other matters pertaining to elections"?

AN CEANN COMHAIRLE: The question is not so much the difficulty of amending the Title; it is a question of keeping the amendment which may be offered to a particular Bill within certain limits of relevancy. If we adopted the suggestion made by Deputy Figgis we could bring in a Bill with a very simple Title, and consisting of twelve sections. Either the Government or the Opposition or any Deputy could bring in an amendment to insert other sections dealing with a wholly different matter, and could then simply move to amend the Title by including these matters. It is not so much a question of amending the Title as of relevancy to the subject matter.

Mr. BLYTHE: I think this is relevant to the subject matter of the Bill. This was part of the law relating to corrupt practices, and we are consolidating that law now and amending it. If it were to be introduced as a fresh provision it certainly would not have anything to do with corrupt and illegal practices.

Mr. DARRELL FIGGIS: In some Standing Orders that come to my memory it is definitely stated that the Title to any Bill is left last in Committee, and it then may be amended. If the Title is to be left last and may be amended it may be supposed that certain matters introduced in Committee may require the amendment and the enlargement of the Title. It follows again that certain matters may have arisen in Committee that are not strictly relevant to the Title.

AN CEANN COMHAIRLE: That is quite clear. What is introduced in Committee must not necessarily be relevant to the Title, but it must be relevant to the Bill as read a second time and as brought into Committee.

Mr. BLYTHE: I think the Section is in order as it stands. This is a Bill to amend and consolidate the law relating to the prevention of corrupt and illegal practices. We simply have taken certain sections and struck out a certain provision of the law relating to the prevention of corrupt and illegal practices, and we have left in other things to be re-enacted here. I think it should be left in even although its relevancy is a bit lost.

Mr. JOHNSON: I support that view. When I raised the question first it was rather with reference to the Short Title. I think the point made by the Minister when he draws attention to the Long Title, and the fact that this Bill is to consolidate and amend the existing law, makes the section conform to the general intention of the Bill as passed on Second Reading.

AN CEANN COMHAIRLE: Yes, on that ground, that the consolidation and amendment of the law relating to the prevention of corrupt practices necessitates the insertion of this section, the section would be in order. The general position, however, is that when a Bill is introduced and read a second time, any section moved in Committee or any amendment moved in Committee must be relevant to the subject-matter of the Bill. The fact that the amendment moved is not within the Title is not necessarily a bar to the amendment. The amendment may be judged to be in order when it relates to the Bill. In that case if the amendment is adopted the Title must be amended. I only wanted to keep myself clear about it.

Sections 50 to 58, inclusive, put and agreed to.

FIRST SCHEDULE.

Mr. BLYTHE: I move the First Schedule, Parts I., II., III., and IV.

Mr. JOHNSON: If it is in order to go back to Schedule One, may I say that Paragraph 3 reads: "One personating agent in each polling station and no more." Is the polling station the building or the box? Should it not read, "at each polling station"?

Mr. BLYTHE: It is really at the table.

Mr. JOHNSON: The station is where the box is, and you cannot put a personation agent where the box is.

Mr. BLYTHE: I do not think I would interpret it just like that. I think that is the wording that has been accepted. In the Electoral Bill (Section 15 of the Fifth Schedule) it is provided that a separate room or booth may contain several polling stations—that is to say, there may be several polling boxes in the same room. That does not exactly say what

is the polling station. I think that the station is the place, and not the box.

Mr. JOHNSON: I think it is better we should have a clear understanding on that. Commonly a polling station is spoken of as being the building in which the stations are placed—the booth, as it would be called. To speak accurately, a polling station is the box, at which a certain number of voters are to receive their polling papers and place their ballot papers there. I think "at each polling station" would be more accurate, and it would prevent a misunderstanding of the term.

Mr. BLYTHE: Very good; I will accept that. The amendment is: "In Paragraph 3 of Part I. of the First Schedule to delete "in" and to substitute "at."

AN CEANN COMHAIRLE: The paragraph as amended reads: "One personation agent at each polling station, and no more."

Agreed.

Question put: "That the First Schedule, as amended, stand part of the Bill."

Agreed.

SECOND SCHEDULE.

Mr. BLYTHE: In the short title of the fourth item in this Schedule, "The Corrupt and Illegal Practices Prevention Act, 1883," the word "Practices" is left out. It is a misprint.

AN CEANN COMHAIRLE: That will be rectified without any amendment.

Question: That Schedule Two stand part of the Bill."

Agreed.

AN CEANN COMHAIRLE: Is the Minister sure that the note is sufficient to effect the purpose?

Mr. BLYTHE: I will get advice on that. The Bill specifically refers to Dáil Eireann and the Seanad.

Question: "That the Title stand part of the Bill," put and agreed to.

[THE DAIL RESUMES.]

Bill as amended reported.

Report Stage ordered for Monday, 23rd July, 1923.

COMMITTEE ON FINANCE.

ESTIMATES FOR PUBLIC SERVICES.

MINISTRY OF INDUSTRY AND COMMERCE.

Mr. BLYTHE: I beg to move: "That a sum of £193,445 be granted to complete the sum necessary to defray the charge which will come in course of payment during the year ending 31st March, 1924, for the salaries and expenses of the Ministry of Industry and Commerce, including Umpire and Courts of Referees, contributions to the Unemployment Fund and to Special Insurance Acts, for advances to work people under the Labour Exchanges Act, 1909, Fees and Expenses of Medical Referees under the Workmen's Compensation Act, 1906, Fees to Certifying Surgeons under the Factory and Workshops Act, 1901, Fees and Expenses under the Trade Boards Acts, 1909 and 1918, Fees and Expenses under the Electricity Supply Act, 1909, and the Gas Regulation Act, 1920, and contributions towards the expenses of an Irish Stall at the "Daily Mirror" Fashion Fair. (A sum of £102,000 has been voted on account.)

AN CEANN COMHAIRLE: The Deputies have received the details of Sub-head A in type, I take it. How is it intended to proceed? Is it intended to have a statement from the Minister and take the general discussion first?

Mr. WHELEHAN (Assistant Minister for Industry and Commerce): I think I promised the statement first.

AN LEAS-CHEANN COMHAIRLE at this stage took the Chair.

Mr. WHELEHAN. Deputies by now will have received the details of sub-head A. First I would refer to the work of the Ministry during the past few months. The Ministry of Industry and Commerce in its present form, amalgamating what were previously two separate Departments, came into existence in October, 1922. Since that time a large part of the attention of the Ministry was devoted to examining legislation which had been inherited from the British Government, and so far as possible adopting what was suitable to Irish needs. Laws relating to such matters as patents, trade marks, designs, merchandise, copyrights,

companies, merchant shipping, trade facilities, safeguarding of industries and electricity supplies have been carefully analysed. We have had some adaptation Orders. For example, such an Order as the Adaptation of Enactments Act, 1923, dealing with light railways, and the External Companies Adaptation Order, 1923, and we have prepared and in draft a Control of Electricity Bill. The principles of new legislation on the subject of patents, trade marks and designs are under consideration, and are receiving legal attention. In addition the Dáil will recollect that we have enacted the Statutory Undertaking Continuance of Charges Act, 1923, and, as promised when that Act was before the Dáil, we have set up a Committee of Investigation regarding the Dublin United Tramways Company. We also passed through the Oireachtas a special Act dealing with unemployment insurance, and we are still engaged in investigating the system of unemployment insurance operating in various countries, both in the old and new worlds, to see what system more suitable than the present it is possible to bring into operation in this country. Inspectors are in training for the operations of the Weights and Measures Act, and an investigation is proceeding throughout the country to recover and restore the standard and sub-standards which have been lost during the past few years. The first annual report of the Companies Consolidation Act, as to Companies operating in the Saorstát, has been submitted to the Oireachtas. Inspectors have been appointed for the purpose of the Factories and Workshops' Act, and medical referees and certifying surgeons under the Workmen's Compensation Act.

It has been a large task to review and adapt to the new circumstances created by the establishment of the Saorstát all legislation on matters affecting industry and commerce inherited from the British Government. Much of that legislation is of little advantage to the Saorstát and even where it has been of advantage the machinery has not always been suitable. Where necessary, the administrative machinery has been made effective, while such early amendments in the code of industrial and commercial legislation to encourage the course of trade are being rapidly advanced. To promote trade we have for the first time in this

[Mr. Whelehan.]

country a new Statistical Department and a new Intelligence Department. The Intelligence Department collects reports from our trade representatives abroad, reports which should be of great service to the industrialists of this country. Simultaneously, details have been obtained from Irish manufacturing and trading concerns as to their capacity for export trade and their requirements in the matter of foreign markets. The effect of a number of commercial treaties and arrangements inherited from the old régime is being carefully examined with a view to safeguarding the real interests of the Saorstát, and the question of the maintenance or alteration of such treaties and arrangements can in future be decided. It will then be possible to see their defects and possibilities. Effective machinery for the registration of ships and seamen has been set up, and the service for the establishment of wreck salvage and life-saving around the coast is being overhauled.

Much damage has been done in recent years to the building and equipment of this service, and an inspection of all the old stations is now practically complete. On the East Coast 14 stations have been re-established and are being re-equipped. Practice and drills have been re-started, and the service will be in working order, it is hoped, within a few weeks. Similar action is proceeding in connection with the stations on the South and West, so that before winter comes arrangements will have been completed to deal with wrecks on any part of the coast of the Saorstát. During the past few months continuous attention has been given to the important matter of the future organisation of the railways to determine the best method of procuring a cheap and efficient system of transport for the Saorstát. The problem is a very complicated one, and its conditions are in many respects peculiar to the Saorstát. The damage to the railways and the general disturbance of trade caused exceptional difficulties which necessarily involved delay in examining the problem from every point of view so as to ensure that the policy ultimately adopted will prove beneficial.

Considerable progress has, however, been made, progress which has altogether surpassed our expectations at one

time. I may state that two of the larger companies, with some of the smaller companies in the south, have now come to a provisional understanding, and that understanding really forms the nucleus of the whole scheme, details of which are under consideration at the present moment, and, in fact, a conference upon those details is taking place even this very day. The Ministry fully realises the necessity for the organisation of the whole railway system within the Saorstát. It has not felt that it would be justified in using compulsion up to the present to bring about agreement between the parties. In fact, so far the voluntary work of the various companies has been so successful that we feel justified in waiting a little longer for the ultimate voluntary successes from all the companies. It may be understood that the time which will be afforded for voluntary conclusions to be arrived at by the companies cannot be unlimited, and the Government will be bound in the interests of the whole Saorstát to take action if within a very reasonable time from this date the companies do not themselves come to conclusions of their own volition. We do hope that before long it will be possible to announce the main principles which it is intended to adopt. At the present moment as the conference in those matters is taking place, I do not think I should do more than state what I have stated.

Special attention has been given to the repair of damages to the railways, and arrangements were completed to enable companies to carry out repairs with special expedition. Generally speaking, those arrangements have worked most effectively. Where any difficulties have been experienced they have been overcome, and with few exceptions the damaged lines have now been restored, and even where repairs have been necessary on a large scale their early completion is assured. In speaking of the restoration of the railways and of the maintenance of the railways during the difficult times in the past few months I should like to bear very cordial testimony to the whole-hearted support which the Ministry received from the Railway Protection and Maintenance Corps of the National Army. No sooner did the Ministry bring under the notice of the corps any break in the traffic system of the country than it had the immediate attention of the very able Commander

of that corps. I think the Dáil will realise that I only do justice in saying that the trade and industry of the country during the last year owe a good lot to the gallant effort of the Railway Protection Corps to keep the railway system running.

Since last October some twelve thousand persons have been placed in employment through the employment Exchanges, and in the same period more than one hundred industrial disputes have been settled, including disputes in the flour mills, certain ports and on the railways. Industrial Councils for the creameries and flour mills have been set up, and are functioning successfully. The administration of unemployment benefit for some 30,000 of unemployed has proceeded with smoothness and expedition. The inspection of factories and workshops has proceeded at a rate of 219 inspections each month. A number of applications to supply and generate electricity, particularly in country towns have been considered, and in most cases have been granted. Proposals for hydro development on the Liffey have been considered and arrangements are being made to assist parties concerned in their promotion.

A number of conferences have been held with harbour and dock authorities on matters ranging from proposals of a harbour for a trans-Atlantic traffic to applications to carry out structural repairs.

Deputy Milroy will be interested in knowing what we have done, and what we propose to continue to do, for the industry of the country, and I am sure the Dáil will share his interests. The Contracts Committee set up by the Government has been functioning for some months past. Our Ministry is not a purchasing department of the Government, but on the Contracts Committee we have two representatives, and the representatives of the Ministry in going to the Contracts Committee have been instructed to see that the interests of Irish industries are fully considered by that Committee, to see that they are fully safeguarded, and to make a case for Irish industries generally at that Committee. That their efforts have not been altogether unsuccessful the particulars which I gave the other day in replying to Deputy Milroy, and which, perhaps, I may repeat for the further information of the Dáil, amply justify. Returns were

asked for by the Deputy for four months. I have those returns compiled. For the months of March the money value of all contracts placed by the Contracts Committee within the Saorstát, and for goods of Saorstát origin was 85 per cent. of the total.

Mr. JOHNSON: Would the Minister say the amount?

Mr. WHELEHAN: £131,825 10s. 3d., that is from the 1st to the 25th March. From the 25th March to the 31st May inclusive 94.6 per cent. of the money value of contracts placed by the Contracts Committee was placed within the Saorstát, the amount being £131,609 0s. 10d. For the month of June the total value of contracts placed within the Saorstát by the Contracts Committee was 99.36 per cent. of the total. The money value was £43,499 12s. 9d. It will thus be evident that the policy which I stated last February, the policy of the Government to encourage Irish industry by spending every possible penny economically within the Saorstát has been strictly pursued, and I should say even though the Chairman of the Contracts Committee has been good enough to assure me that I never approached the Contracts Committee except to kick it, we have on the Contracts Committee people who were more than anxious to co-operate and who felt it their duty to safeguard the interests of Irish industry.

The Intelligence Department which the Ministry has set up during the past twelve months has been collecting information as to possible markets abroad for our own products. We have been collecting from traders here at home statistics as to possibilities for their export trade, and at the present moment we have placed before the Minister for Finance proposals for the publication of a monthly journal which will supply traders with particulars of foreign markets to which they may successfully send their own products, and, perhaps, suggest to them, for their own consideration, methods or processes of manufacture that would make some of the industries in the Saorstát at the present moment more likely to meet successfully foreign competition. We hope to have the sanction of the Minister for Finance for that journal, and if we obtain sanction for it, then it should be possible to have it published at the very earliest date.

[Mr. Whelehan.]

I have also referred to the Statistical Department that has been set up in the interest of Irish industries. A Fiscal Commission of Inquiry has been set up to inquire into the whole Fiscal question. Now, there is no more important subject bearing upon the welfare of the whole country than the Fiscal policy of the nation, and the Government could not possibly rush to a hasty or ill-informed decision upon a question of its Fiscal policy. Therefore, it has set up this Fiscal Inquiry to investigate the conditions of Ireland's industry, so that it may be enabled in the future to pursue an enlightened policy in fiscal matters.

We have got to realise that if our industries here are to be successful in meeting competition from abroad, they must be on a sound, economic basis; they must aim at that. Now, to be based on sound economics, they must have modern methods and modern methods must be employed; antiquated methods will not do. During the past six or seven years there has been a veritable revolution in industrial methods, and if our industries in Ireland are to compete successfully, with any possible shadow of success, with industries from across the Channel or from the Continent, they must be reorganised and they must bring their methods and processes up to date. Then, again, in order that these industries may be really economic, the management of them must be efficient. Without efficient management you will have blank failure. Now, if we have inefficiency of management and want of organisation in industry, or inadequate methods or processes, are we to saddle our people with those to make them pay for inefficiency? Such problems, then, as organisation in industry, processes of management, will naturally arise before the Government can feel justified in deciding on any fiscal policy with regard to these industries. The interest of the Government is a wider interest than the interest of any class. The interest of the Government is the interest of the whole of the citizens of the State, and it must not saddle the citizens of the State in paying for inefficiency or want of organisation or inadequate methods, and it will not do so.

The Commission on Reconstruction has been set up, and already a report has been received from that Commission

dealing with roadway construction. That report has been published and has been sent to the Minister for Local Government, and we have been pressing the Minister for Finance to foot the bill which the Commission said would be necessary to carry out the work. The Commission is still sitting and taking further evidence, and we are awaiting its further reports.

Mr. DARRELL FIGGIS: May I just ask if, pursuant to a pledge given by the President when that matter was raised before, it is intended that the report should be distributed to Deputies?

Mr. WHELEHAN: If the President gave an undertaking to that effect, I shall certainly ask him about it, but I cannot say. The Canal Commission is now almost concluded, and we are awaiting the report from it at an early date. The Report of the Prices Commission has been considered in part, and is still under consideration, but it is hoped that before the end of the present week the report of that Commission will be made to the Ministry, and the Ministry will be urged to publish it at the earliest possible date.

In the interest of Irish industry, we have also succeeded in having the dues of Irish ships entering into English ports continued at the old rate, and not having our ships treated as foreign ships. The fact that we have been also pressing the Irish railway companies to come to the earliest possible conclusion of their deliberations in regard to amalgamation is also evidence that we are trying to secure for Irish industries the benefits of what we hope the reorganisation of the railways will mean in reduced rates for Irish traffic.

Now, the Estimates submitted for Trade and Commerce in the country are served by a Vote for £41,138, with part of the sum of £13,051, which is also devoted to the interest of trade. In the Estimates of the Ministry generally it would be very hard to draw a line between where the Labour interest ends and the Trade interest begins.

Deputy Milroy was interested to have the figures which we actually devoted to trade interests, and I have now given it to him. That leads me to the further reason for the amalgamation of the old Ministry of Economic Affairs with the Ministry of Labour. Before the amalgamation of these two Ministries, the public

did not really know where to go with their cases; they did not know whether it was a case for the Ministry of Labour, or for the Ministry of Economic Affairs. Now, they know where to go, and if their case deals with Trade they go to the one Ministry. I hope it will be agreed that anyone who has come to us, whether from an industrial concern's management, or from the ranks of the industrial concern's employees, has found that he has had attention. There was overlapping in the old days, and the amalgamation has made for more rapid attention to matters. There has not to be a passing from one Ministry to another, or the return from one Ministry to another, of files of correspondence, but there has been more rapid attention and considerable economy, economy in staffs, in premises and, consequently, in rents, and we hope, also, economy in time, which is a very considerable matter. Nothing is more extravagant than to have a number of small departmental units water-tight where, if routine is to be followed out as it must be followed out, considerable delay will arise. Now, these considerations, considerations arising from experience in the old days when the Ministry of Economic Affairs and the Ministry of Labour did exist, led to the amalgamation of the two Ministries, and I think it will be found that generally their amalgamation has been productive of effective results.

Mr. MILROY: I must compliment the Assistant-Minister for Industry and Commerce on the very exhaustive review he has given of his Department. At the same time, I cannot help feeling a little compassion for him because he reminds me of a piece of classic sculpture known as "The Laocoön," which represents three persons struggling with a serpent, and with very little prospect of being extricated. The Assistant-Minister for Industry and Commerce seems to be struggling in the coils of a system of Departmental procedure which was not his creation, but from which he does not feel able to extricate himself, at least, for the moment. However, I want to adduce a few reasons why he should be removed from that unhappy position in which not only he is being strangled, but, I think, the real vital economic interests of the country are being strangled. This

Estimate is a most interesting one, but somewhat bewildering. The Minister a moment ago gave me some figures. He stated that in the Estimates submitted the interests of Trade and Commerce in the country were served by a Vote of £41,138, and that part of the sum of £13,051 was also devoted to the interests of Trade.

I have gone through the Estimates dealing with his Department, and I have endeavoured to extricate from the items given under the different heads the items which might be said to be devoted to Industry and Commerce, as distinct from Labour. They are not easily identified, with one or two exceptions. I suppose the item of £150 which is put down for the "Daily Mirror" Fashions Fair must be regarded as an unmistakable attempt to further the interests of Irish Trade and Commerce. Some of the other items are not easily identified either. The total Estimate for the three Departments is £327,803, and out of that I can only locate a sum of £27,000, which would seem to be devoted to Industry and Commerce in this country. Figures are given under the following heads:

Trade Department, £9,000; Stationery, £13,879; Statistics and Intelligence, £4,759.

Assuming that there is £41,000 which I have been unable to find figures for, out of £327,803, that seems to me to be a very small sum indeed to devote to a matter of such extraordinary importance as the Industry and Commerce of the country.

It was urged by the Minister in his concluding remarks that there was economy in many directions by the merging of the two Departments he mentioned. I hope it is not a mistaken kind of economy that is being pursued, and I hope it is not considered wise procedure to economise in the expenditure of money which is essential to the development of the industrial and commercial life of the country. I hope it is not considered wise and sound statesmanship to expend vast sums of money in trying to settle labour disputes and to be utterly and absolutely cheese-paring in the matter of trying to develop these things which will give healthy, social and economic stability to the nation, as well as satisfactory remunerative employment.

[Mr. Milroy.]

We were told when I raised this matter before, that it was not wise to confine the Ministry to the mere question of wages, hours of work and conditions of employment. I think that if we had a Department confining its attention exclusively to those things, and dealing with them efficiently and satisfactorily, it would be a great blessing. I am not at all certain that some responsibility for the fact that we have such regrettable widespread labour disputes cannot be apportioned to the circumstances which compel the head of this Department to have his attention distracted from these things by other matters. I think it would be for the good of the labour situation, and for the trade and commerce of the country if these two Departments were severed and some responsible man put at the head of each. It is a poor argument to say that because there is some economic link between labour and trade and commerce that, therefore, it is essential that they should be merged in one Ministry. It does not follow at all. No conclusive argument has been adduced to prove that. As a matter of fact, if that were so, I think another Ministry might, following on the same lines of logic, be merged in this Ministry, and that is the Ministry of Fisheries.

The Ministry of Fisheries has as much relation, in my opinion, to that of Trade and Commerce, if not more, than the Ministry of Labour has, yet no suggestion has been made that this third Department should be merged in this Ministry. As a matter of fact not only was a Department created, but a Ministry was created for the development of fisheries. I remember the Minister for Agriculture stating that when that was being urged that he was quite satisfied in his own mind that there was a real necessity for the institution of a Ministry of Fisheries. Just as he was fully satisfied of that, I am fully satisfied that the best interests of the Nation will be served by having separate Ministries for Labour and Trade and Commerce. I fail to see what real argument has been put forward to sustain this merging of the two Departments, both of which have distinct functions to discharge. The function of the Labour Department is to see after the hours, conditions and remuneration of labour, and the settlement or prevention of disputes.

AN LEAS-CHEANN COMHAIRLE

I must remind the Deputy of the ten minutes' rule. He can make another speech later on.

Mr. MILROY: I did not know the rule applied to discussions on Estimates.

AN LEAS-CHEANN COMHAIRLE: It does.

Mr. WHELEHAN: The Deputy mentioned a sum of £27,000. We have examined the Estimates very carefully, and I would call his attention to the details which have been supplied him. With regard to the sum of £41,138, on the first page he will find Trade Department. Then if he skips the Industrial Branch which I do not wish to press—some of that goes to trade—there is the Statistical Department, the Intelligence Branch, and further on, Transport and Marine. I should like to know how he computed the sum of £27,000.

Mr. MILROY: Can I make another speech now?

AN LEAS-CHEANN COMHAIRLE: We shall hear some other Deputies first.

Mr. DARRELL FIGGIS: No more important Estimates could come before the Dáil than the Estimates of this particular Department, and one feels it is necessary to congratulate the Assistant Minister on the care he has given to dealing with the various branches included in the Estimates. At the present moment particularly, it is necessary that every care, every attention, and all possible time and efficiency should be given to the work of this Department, especially as it includes so many sub-branches, each dealing in turn with critical phases of the National life. I repeat that every care and all attention should be given, and that there is no matter that could more fully absorb any one single person's attention than the work of this Department. Therefore, I draw attention to what is the most obvious factor in these Estimates. We have stated at the very outset of these additional details that have been provided—and I hope I may take the liberty to say that I think such additional details as these might with advantage be supplied by all Departments—certain increases that are possibly right increases. I take the first figure of these further details in Sub-section 3—the Minister and Secretariat. Last year this

stood at a figure of £3,778. This year it has advanced to £5,263. In that sum is included the salary for the Minister. It is unfortunate under the circumstances that the Minister has not been seen in this Dáil for a good many months. I am aware that it can be said that he is taken up with other duties. If he is taken up with other duties, then he should be kept at those duties. All the time and attention of the Minister for Industry and Commerce, as long as he occupies that position, should be given to this Dáil. One has seen him very frequently in the precincts of the Dáil itself, but since the occasion on which he made a speech here, stating that certain debenture shares would not be paid, we have not seen the Minister in this Dáil, and yet his salary is figuring in these Estimates. I start by stating that that is not a satisfactory state of affairs. Further whoever is to act as Minister for Industry and Commerce should, during this period so vital to the future of the country, give it and this Dáil his entire attention. One recognises that the duties that usually would fall to him fall to the Assistant-Minister who has made his statement, and made it well. Those duties have fallen—if he will permit me to say it—into very excellent care. That does not alter the fact that there is a figure stated in these Estimates for which this Dáil has not seen value, and I urge that that is a matter that should receive attention, the more careful attention, because that Minister is a Minister also of the Executive Council.

Mr. WHELEHAN: Before passing from this I think I should just say straight away that at times in the life of every Nation there are matters even more vital than the Commerce and Industry of the Nation, and no man has done greater service to the Nation than the Minister to whom the Deputy refers. In the discharge of very vital services to the Nation he has been absent from this Dáil, and, I think, it is even beneath Deputy Darrell Figgis to refer to an absent Minister as he has referred to him.

Mr. DARRELL FIGGIS: I made no reference whatever to that fact, and I have stated already that he has been giving his time to other very important matters. I do urge what I have said, and I repeat and stand over every word I said, that if these duties are so im-

portant as to call for his whole time and attention, as no doubt they are, then the duties that attach to the position of Minister for Industry and Commerce should also receive another person's time and attention.

Mr. WHELEHAN: They receive my time and attention. These Estimates were drawn up and were in print before the Minister was called upon to discharge other duties.

Mr. DARRELL FIGGIS: I have not interrupted the Minister. I am entitled to state what I have to say, and to put what questions I have to put, and then the matter can receive attention. I have also added that the matter is under the Assistant-Minister's very excellent care. The Minister's salary figures in these Estimates, but what salary is being earned, and admirably earned, by the Assistant-Minister we have yet to find. No doubt it is presented somewhere, but I have not yet discovered it.

Mr. HUGHES: That is the trouble, I suppose.

Mr. JOHNSON: That is so, there is no salary.

Mr. DARRELL FIGGIS: In any case the essential matter I am dealing with, and to which Deputy Milroy addressed himself, is the question whether Trade and Commerce should be separate, or whether they should be in one Ministry. My own personal opinion is, that they should be as they are, but I do state, whoever is in charge, and whoever is appointed, should be kept to the charge at this moment. If it be necessary for any person to be taken to other more important State duties, then some other person should be found to undertake the duties that belong to this Ministry.

On this Estimate I think the opportunity should be taken advantage of by the Minister to make some statement with regard to the various trade disputes that are holding up the economic life of the country. It is assumed that they have all received very careful attention from the Department. There is at the present moment a very serious dock strike that is holding up the entire economic life of the country. I think the opportunity should be taken under the head of this Estimate to give some information to the Dáil, and through the Dáil to the country as to exactly what progress

[Mr. Darrell Figgis.] has been made towards bringing that dispute to an end, or at least to put the salient features of the dispute before the Dáil, and through it before the country, in a way that they have not yet been presented in the public Press. This is a matter that involves a good many other subjects also. A statement was made in the Press the other day that there was a limited amount of certain vital foodstuffs in the city of Dublin. We would like to know exactly what attention the Department is giving to this question as to the position of various commodities of which the nation stands in need, owing to the hold-up of these ports. I am sure such information is being dealt with by one or other of the various branches of this Department. I urge that the information so collected, and receiving the attention of the Department should be put before the Dáil.

There is one other item on which I desire to ask for further information than the Minister has given. I am dealing with the last page of the supplementary information, that dealing with the office of Consulting Engineer to the Government. I have last year's Estimate in my hand. I ask then what exactly was the position, and who was the Consulting Engineer to the Government; whether he was a person or a firm; what is the remuneration; what are the various stipulations attaching to the discharge of the duty; whether he has anything to do with contracts or not; whether he receives fees or a salary. In the supplementary Estimate for last year that came before us this year, the opening words of paragraph 1 after reciting a number of matters, in respect of which a supplementary Estimate was necessary says: "And the fees and expenses of Consulting Engineer to the Government." These words clearly define that there are certain fees and expenses paid to the Consulting Engineer. In the supplementary information the position of his office is dealt with, including an assistant and secretary, and shorthand typist, but he himself is not mentioned. Therefore, I ask if information could be given as to who he is, the terms of his appointment and the method and manner of his remuneration?

Mr. McBRIDE: I regret exceedingly that the Minister seems to have no policy regarding the encouragement of shipping and shipowning in the Free State. Rail-

ways, whether owned by a company or by the State, receive their money from the people of that country, and they return the money in the shape of wages and dividends to the people from whom they receive it. The process is quite different in regard to shipping and ship owners. Ship owners carry goods for freight. The goods they carry to the Free State are the goods of outsiders. A certain amount is earned on the carriage of these goods. The profits of these freights if carried by ships of the Free State come to the Free State, and are known as invisible imports. The Ministry is engaged in the encouragement of industries within the Free State, but if the bulk of these industries is carried by foreign bottoms a considerable amount of the profit goes to the foreigner.

Railways and roads derive their importance as a means of inter-communication between the people of a country, but their chief importance is as feeders of the ports which are served by the ships. The aim of all seaboard countries is supremacy in the carriage of goods at sea. One of the foremost countries in the world is spending millions at present trying to get a show on the sea. England derives her might and her pride and her power from the enterprise and the resource of her shipowners and her sailors. Why cannot we make some kind of a bid for some of this sea-borne traffic? Norway, one of the poorest countries in Europe, practically keeps itself on invisible imports. I am very pleased indeed to hear that the Department is to issue a Trade Journal.

Mr. JOHNSON: Do not be too sure.

Mr. McBRIDE: It will be of very great benefit to the manufacturers and traders within the country. While I must congratulate the Minister upon the exhaustive statement he has made to-day, it is my hope that when he next addresses the Dáil on the activities of his Department he will be in a position to outline some policy having for its object the encouragement of ship-owning within the Free State.

Mr. MILROY: To resume now where I left off, what I mainly wanted to say was in reply to a question which the Minister asked me when I sat down. He alluded to certain figures which I quoted, and wanted to know how I got the

figure of £27,000. It is probably due to the fact that there are no what I might call identification discs on these figures, or I may have miscalculated them, but the only estimate of figures that I could conclude were for trade purposes were those of Trade Department, Statistical Department and Intelligence Department. He has alleged, I am sure in all sincerity, that Marine Service is also for the Trade Department. I examined the figures, and unless I am suffering from a delusion that this item D, "Services in connection with wrecks and salvage," is trying to salvage the wrecks of our industrial life, I cannot see any other connection, but even if that is the purpose, £550 is a very small item to vote for it. The item "Coast Watching Service, £8,000," is one which, I think, would do with a little illumination. What service does that exactly cover, and what number of people are employed to absorb £8,000? These are small details. The point I want to know is how this particular Estimate can be construed as an expenditure in aid of Trade and Commerce. I wait with some hope of further information on that point from the Minister. I do not know if the Transport Department is also assumed to have any bearing on that, but there are no items unless it be the payment for the acquisition of land for railways. That is the only item that seems to me to indicate any bearing upon actual trade or commerce interests. In that Estimate 55, I find it very hard to locate an item of any serious amount which can be so regarded. "Contribution towards the expenses of the 'Daily Mirror' Fashion Fair, £150"; that is probably all right for that purpose. "Dublin-Cork Steamer, £1,000:" I do not know whether that is an item that could be regarded as I have mentioned. I would like to be informed if it is so. But take all the other figures, they are figures which deal with the administration, so far as I can see, of the Labour Department. Now, I think there is a total lack of proportion in these matters if what I say is correct, and I make these criticisms, not in any acrimonious spirit, but with the desire to get further information, and if what I say is correct, even if the figures of the Minister are correct—

Mr. WHELEHAN: Which they are.

Mr. MILROY: Then if there is £41,000, out of £327,000 spent in the matter of industry and commerce, I say that it is quite an inadequate proportion of the whole expenditure. The other must only be assumed to go towards the administration of the Labour Department and if the argument I made at the beginning is correct, that the Labour Department, in its ramifications, is swamping that section of the Ministry which should look after industry and commerce, it is time that industry and commerce should be placed in a position to look after itself, so that it would not be left to the tender mercies of a Minister who has a sort of Dr. Jekyll and Mr. Hyde existence. We are told that a Fiscal Committee has been appointed. There has been, as I said, a Ministry of Professors. We were told that Nero fiddled while Rome burned. Well, I am afraid that the Professors will be theorising while Ireland's economic life is simply ebbing away. I take a very strong and very emphatic stand upon this matter. This Department is the one on which Ireland's future economic life depends, and it is whether or not this Department, with regard to industry and commerce, takes the bold, courageous, broad and enterprising view that the future economic life of Ireland will be virile or feeble. If it is feeble it means that the whole structure and the whole stability of this nation will be feeble, and that eventually our political liberty that we have regained will be a poor safeguard for the welfare and the prosperity of the nation. I think I have nearly exceeded my second ten minutes. If I think of anything else I will reserve it for my third ten minutes.

Mr. JOHNSON: I do not agree with Deputy Milroy that either the Minister or the Assistant Minister should be likened to Dr. Jekyll and Mr. Hyde, or either of them. I thought perhaps that An Leas-Cheann Comhairle would have called the Deputy to order for suggesting such a thing. The point that Deputy Milroy has made most of, I think, is his objection to the incorporation of the Department of Labour with this Ministry. When the proposal was made a year ago to merge the Ministry of Labour into the Ministry of Industry and Commerce it was assented to from these benches and I think we were right in so assenting. There is something to be said for

[Mr. Johnson.]

Deputy Milroy's point of view if you are to consider labour as something that you can departmentalise in that absolute sense, and that it ought to be something distinct from any other section of the community. When you are dealing with a Labour Department you are dealing with men and women just as though you were dealing with a capitalist department.

You are not dealing with a thing which represents capital, but with men and women who own capital, and it is because of the theoretical ground, which is strong, that we object to the implied indignity that is embodied in the thought that you must have a special Department to deal with labour, as though it was something that must be separated from the rest of the community, and treated as an item in the social organism, but a subordinate item which ought to be treated differently from any other section of the community. It is a question of status on that side, and on that alone, I believe that it is much to be desired that the Minister who is responsible for Industry and Commerce should be responsible for matters arising out of industry and commerce, which incidentally, occasionally means disputes between one section of the community and another, commonly referred to as capital and labour. But you do not desire to set up a special department called the Capitalist Department. Some people will say that the whole Ministry in most countries represents that, but nobody claims that there should be a capital department or a Ministry of Capital. We, at the same time, and for the same reason, object to a Ministry of Labour, and would much prefer that the concerns of the workman should be considered as part of the concerns of industry and commerce. I think that, perhaps, in this initial portion of the discussion on this vote, it is well to have cleared up the question that was raised by Deputy Figgis. Deputy Figgis asked where in this Vote was the salary of the Assistant-Minister, but I think Deputy Figgis is, perhaps, lacking in knowledge in this matter, because the Dáil knows no Assistant-Minister. There is no Assistant-Minister so far as the Dáil is aware, and certainly there is no salary attached to the member of the Dáil who is speaking on behalf of the Ministry.

Mr. WHELEHAN: Hear, hear.

Mr. JOHNSON: We had a return in respect of members of the Oireachtas who are receiving salaries out of public funds, other than as members of the Oireachtas, or Ministers, and there is no sum opposite the name of Deputy Whelehan. His name does not appear on the list, so that we are quite justified in assuming that the services of Deputy Whelehan are costing the State nothing. I protest against that. I do not think that it is right that we should accept from Deputy Whelehan the services that he is performing without payment of a salary, unless it is quite openly and clearly stated that this is a voluntary service. Many men in the Dáil, and in the Ministry, have given tons and tons of voluntary services, calling for the same amount of attention even as their present duties. They have been done voluntarily, but that is not the kind of thing that can continue permanently, and certainly not in the case of men who have responsibilities of this kind. It is not right that the Dáil should expect to have answering to it for this Ministry a Deputy who has to do responsible work without any remuneration for that work.

Mr. DARRELL FIGGIS: Hear, hear.

Mr. JOHNSON: The case that was made by the Deputy in explaining these Estimates was very interesting, but really not very illuminating. Deputy Milroy has, I think, complained, and also Deputy McBride, that there has not been any outline of policy, except in regard to one or two items. There has been a report from the Deputy regarding activities of the Department, but we have had no outline of future policy from the Department. We were told, for instance, that there was a legal examination proceeding as to the position in respect of trade marks, designs, and trade facilities. That, no doubt, is very much to be desired and very necessary, but it would have been more interesting and illuminating if we had been able to ascertain the mind of the Ministry in regard to trade marks and the protection of trade marks, and the part they are to play and that they occupy at present. What is the protection that is afforded to trade marks and patentees? I have heard, on what authority I know not, that a clever and

ingenious person might be able to do extremely well if he took advantage of the legal position in regard to patents. It would have been interesting to hear from the Minister whether the intention is to continue the English law in regard to patents and trade marks, and also in regard to trade facilities, whether there is to be an adaptation or utilisation of the Trade Facilities Act to any extent; whether anything has been done under that Act, and whether the Ministry has made up its mind to give special facilities such as have been given, and are being given by the British Government, and I think by the North of Ireland Government, on this question.

We were not given very much information about the policy of the Department regarding railways. We learned that it is not the intention to interfere with the companies if they were able to come to an arrangement amongst themselves. I am sure they can come to an arrangement amongst themselves, but is the kind of arrangement they will come to amongst themselves the kind of arrangement that will be approved by the Ministry? Has the Ministry indicated to the railway companies the kind of an arrangement which they will approve of? If so, can we have any information from the Ministry as to what limitations have been put before the railway companies, and of what kind of policy will they approve? I suppose there will be need to come to the Dáil for powers, but it is not fair to the railway companies to allow them to proceed making agreements without having indicated at least some of the lines on which such agreements may be made, and will be acceptable to the Ministry. If the companies have, as a matter of fact, been given some guidance on that matter, is the Dáil not entitled to some information? Can we not hear from the Ministry what is the intention regarding railway amalgamation? Is it intended to allow several railways, but not all the railways, to amalgamate? Is it intended to allow some of them to amalgamate into one group, and some to amalgamate into another group?

Mr. DARRELL FIGGIS: I understood from a ruling of the Ceann Comhairle that this matter was to arise on Vote No. 56, dealing with the Transport Department. Does it strictly arise on this Vote? I would like to know whether the question of the Railway Agreement

is to arise on Vote No. 55, dealing with the Ministry of Industry and Commerce, or on Vote 56, dealing with the Transport Department. If it is to be dealt with now, the Dáil should know.

Mr. MILROY: I think it was agreed that the matter would range over several Estimates.

AN LEAS-CHEANN COMHAIRLE:

This matter was referred to in the Minister's statement, and the Deputy is quite within his right in dealing with it. I would remind the Deputy, however, that his time limit has expired. I will be glad to call on him again.

Mr. DAVIN: I notice that as against no expenditure last year, there is a provision in this year's Estimate for an expenditure of £13,879 for the work of the Statistical Department. I would like to know when that Department was set up. Was it set up on the 1st of April of this year? I presume that that Department is working on the returns furnished through the information supplied in the forms which come through the Customs Department and the Railway and Shipping Companies. If the information that I have had access to, or some of which I have seen, is the information that this Government Department is going to rely on with regard to statistics of trade in and out of the country, then I think that information will be very unreliable. The onus, according to law, is upon the exporter, or the importer in the other direction, and upon the forwarding company, to supply the information asked for in these forms. I have seen in thousands of these forms where the correct information is not supplied. In the case of export traffic, when the returns arrive at the port of shipment, according to the existing regulations and instructions, the traffic should be held up for that particular reason. I wish to draw the attention of the Minister to this aspect of the case, so that he may deal with it and see that the exporter who is supposed to fill in that form will give all the information necessary and so avoid calling upon a third party to get the information required. I suggest that some propaganda work is necessary in regard to the education of the exporters, pointing out to them the necessity of supplying accurate information and all the particulars asked for which, according to law, they are compelled to

[Mr. Davin.] supply. There seems to be absolute ignorance on the part of exporters as to the necessity for supplying this information. It is unfair that a third party, on whom there is no obligation except to hold up the traffic at the port when the information is not supplied, should be asked to intervene. Picture traffic being held up simply because people in some interior part of the country do not supply the information that they should supply! Imagine the confusion at the port and the loss to the exporter! Some educational or propaganda work should be done in regard to stressing the necessity for the supplying of this information. The Minister has made a qualified statement with regard to the present position of the railways.

Mr. WHELEHAN: With permission, I will intervene, as the railways are being discussed now, to say that to-day the President had a meeting with Sir James Craig in London, and the railway question was discussed thereat. Another meeting is to be arranged to continue the discussion. It is only fair that Deputies should know that, as the railway question is now being discussed.

Mr. DAVIN: I am very glad to hear that, because I have always felt a solution of the railway question in this country would be the solution to the other and bigger question which we are all looking forward to. I was only going to refer to the railway question in so far as it concerns the failure of the Companies to agree. I presume they have failed to agree to a system of grouping, or to meet the wishes of the Government in whatever policy they lay down in this matter. On the 3rd of January last a very long and carefully prepared statement was made by the present Minister, and he indicated that they had given the Companies what, in their opinion, appeared to be a reasonable time—three months—to agree to a scheme of grouping. He further stated that failing agreement on the part of the Companies at the end of a further three months—on the 1st of July—the Government would be compelled to put into operation the policy which it indicated at that time. That was an additional three months, and even up to the present there is no agreement, I understand, between the Companies. I am quite cer-

tain, from the knowledge that I have at my disposal, that if the Railway Companies were called together to agree to a reduction of railwaymen's wages, the same time would not have elapsed in coming to an agreement; they would not have taken up the same time in coming to an unanimous decision on that matter. In this case apparently they have failed to agree, simply because they could not agree on a price for their shares, or agree as to how the higher class positions, created in the future reorganisation of the railways, would be allocated. Presumably they failed also in regard to what Directors would be in control of the railways in the Saorstát.

I will say this much, that we have been very considerate on this side of the Dáil to the Government in giving them every opportunity to do their best to bring about a solution of this very important question. I think sufficient time has already been taken up by the companies to bring about an agreement, if there was any desire for agreement. I think that a time limit should be named, and a definite statement should be made by the Minister for compelling agreement by that time. Then the Government should take their courage in their hands and put their own policy into operation. While all these parlayings have been going on, the railway rates have been working against the interests of the trade of this country, and that is a very important consideration. With regard to the development of trade and exports, personally I believe that under a unified system of railways, many things can be done which would enable the new railway system to give many concessions in that respect, and particularly to help the agricultural industry, and the development of agriculture generally. I could cite cases of articles such as potatoes or barley, or other agricultural produce, for which the railway rates for, say, 100 miles, for carrying goods in this country have been more than the actual price of the bag of potatoes or the barley. I think that is a position which cannot be allowed to go on, if there is any desire on the part of the Government to assist and develop agriculture. The Minister, according to the language he used, hopes that there will be ultimate success in the direction of an agreement between the companies themselves. I think he might make

provision for their failure to agree, and to say at what time the limit should expire, and what he will be prepared to do in case of such a failure. He also stated that in the very near future he will be prepared, on behalf of the Government, to announce the main features of the scheme that has been agreed to between the two big companies, and under which many of the smaller companies will be prepared to come in. I think it is very desirable before any legislation is introduced in this Dáil that an opportunity should be given to the Deputies to hear the particulars of such a scheme, and an opportunity also for a full and free discussion of the principles involved in such a scheme as he may outline. The Minister also said that a conference is going on with regard to the details. Now, I am sure the Minister will agree that the details of any such scheme that concerns the future of men who have given very long and faithful service in such public service, are very important as they concern the future of men such as the men who might be affected by the new scheme. I think that aspect of the case should have at least the consideration of people speaking on behalf of the railway employees, and I trust that aspect of the case will not be lost sight of when it comes to be dealt with.

The question of damage has also been referred to by the Minister. I would again impress upon him, and upon whatever other Minister is concerned in the damage to overhead bridges, to consider this matter. There seems to be a dispute between the Government and the Co. Councils on the one hand, and the Co. Councils and the railway companies on the other hand. As this dispute has been going on, no attempt has been made to repair the overhead bridges destroyed during the recent commotion in the country. I trust that the Minister will look after that aspect of the case, realising that the overhead bridges are bridges on very important roads in the country, and that whatever dispute there may be between the parties referred to, the necessities of the situation demand that the bridges should be repaired, and repaired as soon as possible. I trust that whenever any scheme is being agreed to in regard to the repairs that the strengthening of the bridges will be taken into consideration, so that they may meet the demands of increasing road traffic. There is no doubt about it that the Ministry is

to be congratulated upon its work in settling many industrial disputes that threatened the life of the country during the past year. I think there is general agreement upon their very good work in that respect.

Mr. SEARS: I should like to say one word in congratulation to the Minister for the excellent statement he has made. At all events he has shown us that the Ministry has taken a very serious view of the task before them. They have set up important commissions to approach the question from many points of view. They have set up Commissions of Reconstruction. They have set up the Canal Commission, the Food Prices Commission, and the Fiscal Commission. Now, it has been admitted on all sides in this Dáil that of all these Commissions the Fiscal Commission is the most important. It will have a greater bearing on the future of this country, and of its trade, than all the others. The Government has been congratulated on the able men it has succeeded in appointing and getting to act on this Commission—political economists of a high standard. They are at present considering, from the point of view of the nation as a whole, what will be the wisest Fiscal policy for this new nation that is now taking its trade into its own hands. The Minister has been blamed for not outlining the policy for his Department. But I think the Dáil will congratulate the Minister and the Government upon waiting to read the Report of the Fiscal Commission before deciding on that very important matter as to what attitude Ireland would take in regard to its overseas trade. Those who have criticised the Ministry on the question of the Railways have approached it from many points of view. Deputy Davin has frankly admitted that the Ministry has been very active in regard to disputes, and has settled numerous disputes. The Ministry has been called upon to state what is its policy with regard to railway amalgamation. The very brief announcement that the Minister made that our President is at this moment in a very important conference upon the railway question, shows that the Ministry is losing no time about this railway matter and is following it up in the closest possible way. No compulsion has yet been attempted, and it will be a matter of satisfaction if such

[Mr. Sears.]

an important question as the amalgamation of the railway lines can be settled without resorting to compulsion. On the question of policy with regard to railways, there is no complaint against the Ministry, seeing at the very moment our President is engaged in a Conference. Until that Conference is decided how could any policy be decided? We can rest assured that the interests of the country will be safely looked after with regard to that Conference. I think the Dáil should be well satisfied with the extremely careful and businesslike statement made by the Minister outlining the policy of what has been done by the Ministry so far. On the most important point of all, that is our fiscal policy, no decision can be arrived at until we have the report of the Fiscal Commission.

Mr. JOHNSON: I wish to say that the policy outlined by the Ministry was vague and unsatisfying. In addition to the rather perfunctory reference to trade marks, designs, and trade facilities and to the reference he has made regarding the railways, he touched upon the Contracts Committee. He stated the Ministry for Industry and Commerce was not a buying department, but that it was represented by two persons upon the Organisation Committee, and he gave certain figures as to the proportions of purchases by that Committee since the 1st of March, showing the high proportion of contracts within the Saorstát for goods purchased within the Saorstát. I have no doubt there has been a considerable improvement in that respect, but a very essential figure is required before we can come to a final judgment, and that is out of the £300,000 referred to of contracts placed since the 1st of March what proportion of the £300,000 was that to the total amount of State purchases within that time? In other words, do all the departments purchase all their material through these Contracts Departments? If not, then we are not getting the information that is required to satisfy the general demand of the country to know what the Government is doing regarding the purchase of Irish materials. If it can be said that this £300,000 represents the whole or nearly the whole of the purchase of all the State Departments, then it is a very satisfactory statement indeed. Perhaps the Ministry can tell us whether

there are any Departments of the State which are not making their purchases through this Contracts' Committee, and if so, can he state what the policy of those other Departments in regard to purchases outside the Saorstát may be, and in that case give us similar figures for those other Departments as he has given respecting the purchase by the Contracts Committee, relating to the proportion of the total amount of purchases which the contracts, placed within the Saorstát, comprise? Until we get those figures we are not very much nearer satisfaction because it may be that very much more than £300,000 worth of goods have been purchased, and a large proportion of that additional sum may have been sent out of the Saorstát. I hope the Minister will be able to satisfy us on that point.

The Minister has told us that one of their activities has been the setting up of a fiscal inquiry. I thought the credit for that was claimed by the Minister for Finance, but that by the way. There has also been set up a Commission on Reconstruction. There was also set up a Commission on Railways. I hope those Deputies who are looking to the Fiscal Commission with satisfaction will have better reason for that satisfaction than those who trusted to the promises of Ministers when they set up the other Commissions. Deputy McBride expressed satisfaction, joy almost, at the statement of the Minister in charge that a monthly journal was to be issued, but Deputy McBride misunderstood Deputy Whelehan. He did not say a monthly journal was to be issued; he said they had recommended a monthly journal to be issued, which was quite a different thing. I would imagine that it would be almost a matter of course that a Minister of Industry and Commerce would have issued a monthly journal, perhaps a weekly one long ago, but they have merely recommended that such a journal should be issued and published.

Mr. WHELEHAN: We have submitted.

Mr. JOHNSON: I understand. Not only have they made recommendations but the Department has submitted proposals. I wonder whether we shall have the spectacle again of one Ministry or one section of the Ministry submitting proposals and another section turning

them down. I am hoping they will have had more success in their submissions with the Ministry of Finance than other Departments have had with theirs, and I hope we shall see within a very few weeks the first issue of the Department's journal respecting Industry and Commerce but I have my doubts. The Commission of Reconstruction was appointed in the early part of the year, and it was very definitely promised by the Minister that this was no means to be a shelving Commission and we were told that when that Commission was set up it was to pay special attention to the question of unemployment. Very close inquiry was made into the question of reconstruction so far as it related to roads, and a report has been submitted and has been printed dated the 31st May. It has been in hands for some weeks now, has been considered by the Ministry of Local Government, and has been submitted to the Minister for Finance. I want just to draw attention to the fact again that this report has been printed for 6 weeks, and is available for official use. It has not yet been circulated to members of the Dáil. That Commission has given careful consideration to this question. The Committee contemplates certain work which may be done this year and for which plans are in being and for which machinery is ready. Every County Surveyor is able to begin the work of re-conditioning and reconstructing the roads at any time. I would like to have from the Minister responsible for this Vote, which was responsible for the setting up of this Commission, some kind of assurance that the Commission's work is going to bear fruit immediately; that when they told us we were to devote our time and attention to proposals which would give employment at an early date to a large number of men, they meant what they said. These proposals are reasonable and have been worked out in practical fashion. You could set to work within a week ten thousand men.

I want to know is the Ministry going to honour the promise of its Minister, and whether it is going to make effective the report of the Commission which it set up on a definite understanding and on a definite promise? I am, perhaps, asking Deputy Whelehan to accept responsibility which he will be loathe to accept, but he is in charge of this Ministry, which was set up under the Minister for whom he is

speaking. I claim it is due to the Commission, and more especially due to the country, to know whether the Ministry is going to give effect to this, the first of the reports that have been issued by that Ministry of Reconstruction, or are we to assume that the Minister's intention is not to be fulfilled, and that, having set up the Commission, the fulfilment of the recommendations may await further consideration. I am stressing this matter because it will affect the work of the Commission in future. It is a matter of urgency. The proposals are practicable and have been carefully thought out with expert advice. Money will be required, but it will be required in any case, and it is a question whether money is to be spent now or in a few months' time. I assume that the Minister, at any rate, before the Vote is finally passed, will be able, perhaps after consultation with other Ministers, to give the Dáil a positive assurance that the work outlined in the report respecting the re-conditioning and reconstructing of roads will be set going without delay, and that the utmost number of men that can be employed on this work will be set to work in the shortest possible time.

Mr. GERALD FITZGIBBON at this

Mr. DAVIN: The Minister has referred to the anxiety with which he was looking forward to the production of the report of the Canal Commission. I am not going to say anything in regard to that, except that his anxiety in that particular direction will, I think, be relieved in a short time, so far as the members of the Commission are concerned. I ask the Minister is his anxiety on this particular matter due to the desire to consider the Report at once and bring in the necessary legislation and give effect to the recommendations of the report before the General Election? In asking that question I take this most suitable opportunity for asking a decision on the matter, and, bearing in mind the statement made already that the Government are considering the question of the railways, having in mind the best methods of securing the most efficient means of transport, it may be correct to say that this might be the means to bring about this very desirable end. I would like to know if the report of the Commission would be taken in conjunction with the legislation that may be necessary to be introduced!

[Mr. Davin.] in connection with the reorganisation of the railways. I would like that he would give some definite assurance, if he is able to do so, on that particular matter in his reply.

Mr. MILROY: I want most emphatically to endorse what Mr. Johnson has said about this report on the roads. One thing is going to happen if a report such as this is shelved indefinitely, and it is this, that Deputies and other persons who are asked to attend such Commissions and spend their time in a careful study of vital questions will simply regard these Commissions as a huge farce, if something is not done to put in operation the recommendations made after mature discussion. I think it will be fatal or, at least, a very grave injury will be done to the prosecution of similar enquiries, if it should be the fate of this particular report that it is pigeon-holed until some remote or indefinite date. I am anxious to urge upon the Minister to secure from the Government some undertaking that steps will be taken to put this report into operation so far as possible and as soon as possible. I want also to allude to one or two other things to which the Minister referred in his opening statement. He referred to the fact that an enlightened policy in fiscal matters was absolutely necessary to the life of the country. With that sentiment I am in absolute agreement. I do not know whether our definitions of an enlightened policy would coincide.

I heard with satisfaction, not only in answer to the question last week, but also the repetition of that answer to-day, the figures given in regard to the percentages or contracts within the Saorstát. I think that is excellent. But what is really going to happen in my opinion is that if there is not a revision of the general economic policy of the country there is great danger that there will be no Irish manufacturers to place contracts with. The Minister says industries must be on a sound economic basis to meet foreign competition and he followed that up by a statement or an implication—I do not know whether these were his exact words—that “to secure that sound economic basis antiquated methods must be discarded and modern methods must be adopted and inefficiency must be eliminated from industrial matters.” We agree in the latter, but the inference I draw from the statement he made was

that these Industrial Pioneers or Captains of Industry are to be expected to secure that sound economic basis themselves without any intervention on the part of the State to assist them in any way. Now there has been a most extraordinary policy in vogue in Ireland for many years and it is this: That while it is the soundest possible statesmanship for the State to intervene to put Agriculture in a sound financial economic position so as to give it a chance, it is the last word in economic folly for the State to intervene on behalf of the other great arm of the Nation's life—Industrialism. If it is sound statesmanship in one, it is sound statesmanship in the other. If it is erroneous in one is it not equally erroneous in the other? If it is an economic fallacy or delusion that the State should assist industrialists, then it equally follows that the State has been following the most fantastic economic illusion in trying to meet agriculture in its demands.

Mr. WHELEHAN: As a matter of personal explanation, and in order to relieve the Deputy, I might say his inference is altogether in error. What I had hoped the Deputy would infer was in fact that the Fiscal Commission had been set up to enable the State to see whether it could in justice help Industry and not that the State should stand aloof.

Mr. MILROY: I am extremely glad to hear that my apprehensions were not correct. But I certainly think that there was an unnecessary emphasis laid upon the phrases “inefficiency” “modern methods,” and “sound business basis for manufacture.” Taking them on the whole I think they are not inefficient, and they are doing all they can to attain to the best modern methods. I do not know whether many here are aware of it or not, but there are manufacturing industries and manufacturing concerns that are practically shivering on the brink of extinction, and that because of the particular fiscal system that has operated, and that continues to operate. They cannot afford to wait for several gentlemen of academic distinction, meeting in some place remote from these concerns, to arrive at a decision. Their verdict in the long run may be all right, their operations may have been perfectly successful in evolving the soundest fiscal system, but in the meantime the unfortunate patient may have expired. They may produce splendid

economic theory for this country, and a splendid fiscal system, but the Industrial basis upon which that system was to operate may have vanished from the scene of things when that report is made.

I urge that this matter cannot brook delay. The Industrial life of Ireland is now practically in the condemned cell, and all we can do is to try and keep it alive by getting at least a respite if not a reprieve.

Dr. WHITE: In common with other members of the Dáil I wish to congratulate the Assistant Minister for Industry and Commerce upon his very excellent report. I think that we have been lucky enough in land affairs for some time past, and I venture to say that we should concentrate a little more now upon marine matters. Looking at the particular report on Marine Service, the preservation of life and the establishment of rocket and life-saving apparatus, I see only £550. I venture to say this is a very pressing and rather important matter, and as one who lives by the sea and knows a little bit about it, or thinks he does, this matter of lifeboat and rocket apparatus I think should be very much more fully looked into. We are now in the summer, and winter is on the approach. We have for the last year or two been extremely fortunate, because I do not think there was any loss of life off the Irish coast owing to want of rocket apparatus or lifeboat assistance, but I respectfully suggest that the whole question should be seen to now. I do not know if the men who form the coast watching service have anything to do with this matter, but I think they should be linked up, and crews and all the necessary paraphernalia should be got together as quickly as possible. I do not see any mention here about lighthouse lights. Now, that is a very important matter, and I think some of us would be very anxious to know exactly something about the Irish lights.

As regard the roads, this is a very important and pressing matter, but so far no report has been issued. I am sure when it is, it will be very practical, and we will be all very anxious to see it. As regards the fiscal question mentioned by the last speaker, I am quite at one with him and am still of opinion it would have been better perhaps if some sort of a compromise had been arrived at, and if some practical businessmen were sitting upon that Commission. However, I

suppose afterwards the practical businessmen will have the opportunity of meeting these other gentlemen. I sincerely agree with Deputy Milroy that the fiscal question in general is one of paramount importance for the Nation and permits of no delay. While I might say I am in favour of protection myself, I think protection should be practised with discrimination and practised only in such a manner as to protect the existing factories that we have in Ireland. I for one would like to see the Clondalkin Paper Mills working again and the Glass Works down the river working and these are institutions and factories that deserve protection.

Mr. CORISH: I would like to say a word or two in connection with this debate. I agree with the Minister for Industry and Commerce in saying that all industries should be placed on a sound economic basis and I am just wondering what control he has over the different Railway Companies in the Saorstát and whether he is in a position to institute an inquiry into the freights charge because it appears to me that in some instances freights are adopted indiscriminately and out of all proportion to the value of the goods carried. The railways in the Saorstát in the past few years have decreased their servants' wages but they have not so far as I know decreased the freights on goods and that has militated against the State as a whole and against the individual members of the State.

In the Six Counties, I understand, the average increase in freights, as compared with pre war, was 150 per cent., and it is now 100 per cent. We have not got a decrease like that in the Saorstát, and it ought to be apparent to everybody that that will militate against the Saorstát in favour of the Six Counties. That is not a desirable state of affairs at a time when the 26 Counties are trying to find their feet. I would press for an answer as to whether the Minister has any control over the railways, to the extent that he could institute an inquiry, because I have come across cases from my own area where cheap articles of manufacture could not be exported owing to high railway freight charges. We have a factory in Wexford for the manufacture of clay pipes, and at the present moment the proprietor of it is unable to send his manufactured goods outside of Wexford owing to the high

[Mr. Corish].
freights that prevail. These are articles which are manufactured cheaply, and their manufacture gives a good deal of employment in the area, but for the reason I have given it has been found impossible to develop the industry, simply because of the high freight charges that prevail. If, as the Minister stated, it is his desire to assist to put the industries of the country on a sound economic basis, I think the proper thing to do at the beginning would be to institute an inquiry into the question of freights. There are many people in Ireland at the moment who believe that the present high freights are actually killing the industries of the country. The cost on the people of the country for food stuffs, because of high freights, is enormous. I would like to know from the Minister if, in the evidence tendered at the Food Prices' Commission, this aspect of the situation was taken into consideration. Like Deputy Johnson, I would press on the Minister that the report from the Reconstruction Committee, in connection with the roads, should not be allowed to be shelved. Everybody knows that the roads in the Saorstát are a by-word. They have been neglected during the past four or five years, and owing to the conditions that prevailed in the country it was not easy to give them the attention that they warranted. I hope that the Minister and the members of the Dáil, irrespective of the Parties to which they belong, will press on the Ministry of Finance to see that the roads in the Saorstát are attended to. This is a very important matter just now, when motor traffic is being developed to such a large extent in conveying manufactures and food stuffs from one part of the country to another. I think that the report that has been sent in from the Reconstruction Committee should engage the serious attention of the Government, and I urge on the Assistant Minister for Industry and Commerce not to allow the Ministry of Finance to shelve this important report.

Mr. COLOHAN: I desire to draw the attention of the Minister to delays that have occurred in the payment of unemployment benefits. Some claims that I know of were sent in 8 or 9 weeks ago, and so far the men have received no benefits. It is very hard to expect men to come in day after day to sign up the forms in the offices of the Labour Exchange, and at the same time to receive

no benefit. I am sure the Minister will attend to that matter. Yesterday I put in a question about the Newbridge Exchange which is in my area, and I hope the Minister will see that the work in that office is speeded up a bit. For the last twelve months I have been listening to complaints with regard to that office, and I think the work done in it ought to meet with the Minister's earnest attention. I understand that the office is understaffed, and that the present staff is not able to deal with all the claims sent in. As far as the roads are concerned, I think the report from the Reconstruction Committee should be proceeded with at once. If that were done it would have the effect of providing much needed employment for a large number of men throughout the rural areas of the country, and especially in the constituency that I represent, which embraces important trunk roads leading to and from practically every corner of Ireland. The County Council in my area did all that it was possible for it to do in keeping the trunk roads in repair, even though it did not receive very much financial support from the Ministry. Therefore, I would urge on the Minister to see that the recommendations of the Reconstruction Committee, as regards the roads, are put into operation at once.

Mr. DARRELL FIGGIS: On a point of order, the Minister will now, I presume, reply, but, I take it, it is not to be inferred that he is concluding the debate. I am asking the question for this reason, that I have addressed certain questions to him as a preliminary to certain comments that I wish to make. It has generally been considered that, on the estimates, such information could be provided, and when I have that information I shall then be in the position to deal with the matters that I propose to raise.

ACTING-CHAIRMAN (Mr. Fitz-Gibbon): We are at present engaged on a general debate on the estimate, and after that specific items can be further discussed. This is a general debate on the estimate presented as a whole by the Minister, and on the lengthy statement made by the Minister with regard to all the work which concerns his Department. Later on, it will be quite open to anyone to deal with specific items in the estimate.

Mr. DARRELL FIGGIS: Am I to take it that after the Minister has con-

cluded his general statement the estimate will not necessarily be put to the Dáil?

ACTING-CHAIRMAN: Certainly not. As I have stated, specific items can be discussed later on.

Mr. WHELEHAN: The matter which Deputy Figgis raised on the general discussion is a matter of detail which will come up later on, but I could give an answer straight away, to which he could make any objection that he wishes afterwards. Let me first deal with his question. He wanted to know who is Consulting Engineer to the Government, his terms of appointment and his salary. The Deputy will observe that our estimates include no salary for the Consulting Engineer to the Government. The name of the Consulting Engineer is Crowley and Partners.

Mr. DARRELL FIGGIS: And the terms and conditions of appointment?

Mr. WHELEHAN: The terms and conditions of the Consulting Engineer's appointment and his salary are matters for the Minister for Finance.

Mr. DARRELL FIGGIS: I do not quite understand the Minister, I am afraid. He says the salary is a matter for the Minister for Finance and we are already told that he is getting no salary.

Mr. WHELEHAN: I did not state that. I stated that on our estimates there was no provision for his salary.

Mr. DARRELL FIGGIS: I misunderstood the Minister. Can we assume that he is receiving salary or that he is not receiving salary?

ACTING-CHAIRMAN: A question was put as to what his salary was upon these estimates and in these estimates there was no salary appearing for the office of Consulting Engineer to the Government. We assume that if he does work as Consulting Engineer to the Government he does it in other capacities than that of Commerce and Industry. I do not know if his salary appears in any other estimate, but the Minister specifically states that he gets none from the Ministry of Industry and Commerce.

Mr. HUGHES: I would like to know if the Minister is going to be allowed to reply or if he is to be subjected to questions every time he opens his mouth?

Mr. WHELEHAN: There is no provision in our estimates for any salary for that office, nor do we appoint the terms of reference of the Consulting Engineer. We did originally provide clerical workers for him, as his work was largely engaged in dealing with matters in which the Ministry was interested from the point of view of trade and labour in the country—the reconstruction of the railways—and we did provide a salary for these workers. With regard to the point raised by Deputy Milroy as to the sum of £395,955, of which he said only £41,000 is spent on trade, I would point out to the Deputy that if he will look at the estimates he will observe that of that sum £200,000 is for contributions to the Unemployment Fund and to special schemes, on page 170, estimate 55. With regard to what Deputy Milroy said about the Fiscal Commission, I need not tell him that he was altogether wrong in his inference from my statement. The Deputy pointed out that if manufacturers were waiting for the report of the Fiscal Inquiry the industries in which they are interested would have been, I think he said, executed. I know he referred to the industries as being in the condemned cell. I would point out to the Deputy that it is not the manufacturers who are waiting on the Fiscal Inquiry but it is the Fiscal Commission who are waiting on the manufacturers. They have advertised and re-advertised in the Press and the manufacturers have been looking for an extension of the time in order to prepare their case though they have had months of notice of the fact that the Inquiry was being set up. The Deputy is misinformed if he thinks that the manufacturers are waiting on the Inquiry; they are not. With regard to the point raised by Deputy Johnson about the purchases, what the Deputy states is quite correct. It would be misleading if I did not give the figures of our purchases for the Saorstát. I understand that all the purchases that have been made since the 1st March, for which period only I have figures available, have been made through the Government's Contracts Committee. The Local Government Purchasing Department, the Army Quartermaster-General's Department, the Board of Works, Post Office and the Stationery Office, all have representatives on the Contracts Committee, and all their purchases are made through the Committee—all have to go before it. So that when I

[Mr. Whelehan.]

stated the other day that 93 per cent. of the average of purchases were made within the Saorstát I believed the Deputy might assume that the figure represented 93 per cent. of all the purchases made by the State Departments since the 1st March. Deputy Johnson also wanted to know something more definite with regard to policy than I have stated with reference to a number of questions which are under consideration. What was our policy as regards the Patents and Trade Marks Act? The principles of the old Act were principles which we think were such as could be followed in the Saorstát, with some tightening up so as to safeguard the interests of the Saorstát. It is now not so much a question of principle as of the particular method of the application of the principle. The principles that the Government have adopted are simply being considered and their practical application is now what the legal adviser is to recommend.

Mr. JOHNSON: Might I interrupt the Minister to ask if he will amplify that? Does it mean that the right to exploit a patent within the Saorstát may be, if the legal way is found clear, dependent upon the manufacturer of articles patented within the Saorstát to some degree, which I think is the policy which has been adopted in England?

Mr. WHELEHAN: I should not like to commit myself to an answer, but I think, generally speaking, what the Deputy assumes is correct. He raised the question of policy with regard to the Trade Facilities Act. There again it is a question of what money the Ministry of Finance has at its disposal. It is not a question of principles or policy; it is exactly a question of how much money is available for the execution of our policy. Another question in which, no doubt, Deputy Johnson was keenly interested was road reconstruction. Evidently and obviously the Deputy will agree that the amount of execution which can be given to any recommendation from any source will depend exactly on what finance is available from the State to carry out such works. He asks: is it the policy of the Ministry to shelve the Report of the Reconstruction Commission? I can tell him that the policy which the Minister enunciated in setting up the Commission is the policy which

the Ministry, at any rate, shall continue to pursue.

I have already stated that that Report was submitted to the two Ministries which are interested with us, the Ministry of Local Government and Ministry of Finance. The Ministry of Local Government has, I think, actually expressed its approval of the Report, and it is there again a question of how much money the State has at its disposal to carry into execution the very excellent recommendations of the Reconstruction Commission. On the question of railways, Deputies Johnson and Davin wanted to know something about what the principles of agreement of the railway companies would be and if we had indicated to the railway companies the principles along which we should like their form of agreement to run. We did indicate that to the railway companies. The principles along which we wished the agreement to run are the principles enunciated by the Minister in his speech last December. They have not changed. Deputy Davin raised the question of the Statistical Department. The principal statistics of import and export trade will be derived, not in the slipshod manner in which Deputy Davin fears they may be collected, but from returns rendered compulsorily to the Customs authorities, which is the Department concerned in the matters mentioned. This Ministry takes up with the Customs authorities any modification necessary to increase the value of returns from the statistical point of view. Traders cannot be pressed too far until the new Customs arrangements have been working for some time. It will take some time until they are running smoothly and working efficiently.

Deputy Corish asked if we had any control over railways at present, and if we can control their rates. We have no control over them at the present moment. He also asked if we will set up a Commission and inquire into their rates. In view of, as I hope, the very early reorganisation of the railways, I do not think the setting up of a Commission would be very helpful or that it would expedite matters. The Deputy of course will understand that a reorganisation scheme will include due provision for the regulation of rates. On the point raised by Deputy Dr. White about marine services, I would point out that under Estimate 57, to which I think

he referred, the Coast Watching Service should really be included in E. It should read, instead of £550 in one case and £8,000 in another, £8,550. Deputy Milroy was also interested in the Marine Service and wanted to know what we were doing with that £8,000. The Coast Watching Service for which £8,000 is provided there is intended for life-preservation work, work in case of shipwrecks, maintenance of life-saving apparatus, the organising and exercising of voluntary life-saving crews. It does not follow because £8,000 is indicated in the Estimate that all the £8,000 will be called for, but it has to be considered in view of the average, taking it over several years, that it might be necessary. Deputy Milroy was also interested in an item of £1,000 for a Dublin to Cork steamer. I can assure the Dáil that that £1,000 will not be called upon at all. The Estimate was drawn up at a time when we thought we would have to subsidise a service from Dublin to Cork in view of the desire to secure the general good of the community. The necessity did not arise and the money will not be expended.

Deputy Colohan referred to claims for unemployment benefit, and if he would bring to the notice of the Ministry any particular case or cases, I can assure him that they will have immediate attention. We cannot take action unless we get data, and if he supplies it we will take immediate action.

Mr. COLOHAN: I sent in particulars of eight or nine claims to the Ministry yesterday, which I think he will be able to deal with.

Mr. WHELEHAN: I can assure the Deputy that if he sent them in yesterday I have not yet seen them, and in any case I think he will admit that he could hardly expect to have them dealt with to-day. I guarantee now that the moment any claims are received in the Ministry they will be dealt with. I think these were the chief points raised in the general discussion.

ACTING CHAIRMAN: I do not know whether or not the Committee would consider it convenient to take, page by page, these sub-heads dealing with salaries, and if anybody has any question to raise on each of them we could deal with it as we go by, and so come to the end. That would prevent anybody being shut out by taking some

later item before the one on which he desires to raise a question and we can take the paper put into our hands this morning giving the summary of sub-head A, "Salaries, wages and allowances."

Mr. DARRELL FIGGIS: With regard to the Establishment Branch may one ask, as a matter of general information, whether it is fair to infer that there is such a branch in all departments, because I had gathered, and I think other Deputies were also under the impression, that the Establishment Branch of the Finance Department was handling all these generally? As a matter of general information one would like to know what the meaning of this branch is, seeing that there is a branch in connection with the Finance Department.

Mr. JOHNSON: I want to raise a question on this respecting the attitude of the Employment Officers to applicants for Unemployment Insurance benefit. It is somewhat commonly stated that in applying for unemployment benefit certain classes of workmen and women have it suggested to them that there is employment to be found in England, or in Belfast, or in other parts of the North of Ireland. The question, having been raised, was pressed. The people concerned were not prepared to say definitely that the officer tried to make it a condition that the applicant would accept employment in England, but the suggestion was made sufficiently strong as to suggest to those applicants that if employment offered in England they were bound to take it or lose their right to unemployment insurance. Now, I say that the complainants in the matter, when pressed, quite clearly acknowledged that it was not made a condition, that the suggestions were not put to them in such a way as to imply that their duty was to accept employment in England, or they would run the risk of losing their unemployment insurance. I know that that is not the policy of the Ministry. I am sure it is not, and I think it is well that Employment Officers should be made to understand that they have no right to suggest to citizens of this Saorstát who are entitled to unemployment insurance benefit that they must, or ought, to accept employment if it is offered across the water and I suggest to the Ministry that a circular letter embodying that might well be distributed to the Employment branches.

Mr. DARRELL FIGGIS: Deputy Johnson's question is really on the Employment Branch. It is preceding mine, is it not?

Mr. JOHNSON: I understood that we were on the Employment Branch.

ACTING CHAIRMAN: Well, the Employment Officers appear on the Establishment Branch also. I do not know whether that affects the matter or not.

Mr. WHELEHAN: That was a question of grade, the particular grade of officer.

ACTING CHAIRMAN: I think it would probably be more convenient if the Minister dealt with each branch as we go through them.

Mr. WHELEHAN: With regard to the point raised by Deputy Johnson, I shall have inquiries made, and consider what steps we can take in the matter.

Mr. JOHNSON: Perhaps I may say that the direct suggestion—the latest suggestion—was rather in relation to women workers in tailoring trades.

Mr. WHELEHAN: As to Deputy Figgis' question regarding the Establishment Branch, I think that some of the larger Ministries have a similar branch. We have a very large staff on account of the number of departments in the Ministry, and the various Employment Exchanges throughout the country, and it would be absolutely impossible to carry on efficiently without having an Establishment Branch of our own which really deals with questions of staff register, etc., and I think the Deputy will appreciate that for efficient work we should have some officer who would look after our staff.

Mr. DARRELL FIGGIS: I entirely agree with the point of view that the Minister has presented. I am not raising it in any spirit of criticism, but rather that one should know exactly what the procedure was. I think it would be a matter of agreement that in any department so extensive as this some such branch as this should exist in order that direct responsibility could be obtained. But inasmuch as it deals with the question of organisation I am rather anxious now to discover from the Minister if he will assist me in this matter to find out

what the communication is between the Establishment Branch of this Department, as an example, and the Establishment Branch of the Finance Department; whether the Establishment Officer of this Department is in any sense directly responsible, plus the responsibility to himself, to the Finance Department, in the same manner as the Finance officer of his Department would be responsible to that other Department.

Mr. WHELEHAN: There is no direct responsibility on the part of the Officer, but they work in very close relation, one with the other. The entire Establishment Branch of the Ministry is, of course, subject to the Ministry of Finance. The Ministry of Finance has to provide the salaries in every case, and our Establishment Branch sees that the staff at the disposal of the Ministry is utilised to the best advantage.

ACTING CHAIRMAN: The Trade Department.

Mr. DARRELL FIGGIS: Would it be under this or the next Industrial Department that one could raise best, or would naturally arise, the question of the present dock strike?

Mr. WHELEHAN: That would be on the Industrial Department.

Mr. JOHNSON: I would like to find out whether or not, under this Department the supervision of Irish lightships and Irish Lights comes in. I cannot find in any of the references any sums devoted to the payment of lights or lightships, and this may be the Department that covers such expenses. If it does not, we might find out what Department of this Ministry of Industry and Commerce, if any, does the provision of lights round the coast come within.

AN CEANN COMHAIRLE resumed the Chair at this stage.

Mr. WHELEHAN: The Irish Lights service has not yet been transferred. The Deputy will recollect that it is to come up at a convention between the British Government and the Government of An Saorstát. The Government is in communication with the British Government on the subject. When it is taken over by the Irish Government it will, of course, come up under this particular Branch.

Mr. DARRELL FIGGIS: I addressed one or two questions to the Minister with regard to an Irish trade flag which he has assured me has received the attention of his Department, and with respect to which legislation is projected. I would like to know from him now how far that legislation has proceeded, and when it may be expected to be brought before the legislature.

Mr. WHELEHAN: A Bill on the subject, in which the Deputy is so deeply interested, is at present with the Law Officers for consideration. I think the Deputy was so informed some time ago by the President.

Mr. JOHNSON: Will the Minister oblige with a little more information with regard to the position of the Irish Lights? Is it supposed to be a Treaty understanding, or is it something that happened since the Treaty?

Mr. WHELEHAN: There is a special reference in the Treaty to the maintenance of Irish Lights.

AN CEANN COMHAIRLE: An Annex of the Treaty. It is in the Constitution, Annex 2 (b).

Mr. JOHNSON: The reference is as follows:—"That lighthouses, buoys, beacons, and any navigational marks or navigational aids shall be maintained by the Government of the Irish Free State as at the date hereof, and shall not be removed or added to except by agreement with the British Government." and "a Convention shall be made between the British Government and the Government of the Irish Free State to give effect to these conditions."

If lighthouses, buoys, beacons and navigational marks or navigational aids were being maintained by the Government of the Free State at that date, I presume they are still being maintained by the Government of the Irish Free State?

Mr. WHELEHAN: The Deputy will see it states that:—"A Convention shall be made between the British Government and the Government of the Irish Free State." That Convention has not yet been made, but is the subject of communication between the two Governments.

Mr. JOHNSON: I think the Minister has not the paper before him. It reads:—

"That lighthouses, buoys, beacons, and any navigational marks or navigational aids shall be maintained by the Government of the Irish Free State as at the date hereof and shall not be removed or added to except by agreement with the British Government." Are we to understand that the Irish Free State is not maintaining, and will not maintain, these until this Convention has been made, and an agreement arrived at to give effect to that Convention.

Mr. WHELEHAN: Probably if Deputy Johnson were present when that Article of the Treaty was drawn up, the language would have been more explicit. I take it there that the Convention to be made between the two Governments is to be to the effect that the Irish Government, when it shall have taken over the service from the British Government shall maintain the service as it was being maintained at the date the Treaty was signed. The Convention has not yet been made between the two Governments.

Mr. JOHNSON: I only hope that the cost of maintaining these lighthouses, buoys and beacons, will continue to be borne by the British Government. I have no objection to that whatever, but I assume from this that at least some of the charges would be borne by the Free State, and that we should have seen some reference to them in the Estimates.

Mr. DAVIN: Is it not correct to say that some of the employes of the Irish Lights Commissioners have been transferred temporarily or permanently to the Coastal Marine Service?

Mr. WHELEHAN: Unless some of them have been lent, none have been transferred to my knowledge.

Mr. JOHNSON: May we take it, from the answer of the Minister, that, so far, Irish lights, lighthouses, buoys, beacons, lightships and all that service are concerned, they are not within their control, and any questions regarding the employment of the people in that service, or regarding the repairs of lightships and the like, are outside the control of the Free State Government?

Mr. WHELEHAN: At the moment that is correct.

Mr. DAVIN: Is this the Department that is responsible, or to whom would you look to deal with imported goods? I

[Mr. Davin.]

have on many occasions drawn the attention of the Ministers to the fact that railway wagons and engines have been, and are being, imported, when works are available, and men are in the ranks of the unemployed who could manufacture engines and wagons under reasonable conditions here. I have been approached quite recently with regard to the rumour that a large Irish railway company intends to bring in some coaches, but I have been informed by an official of the Ministry that such is not the case. However, a little while ago you would have seen in the press—the “Freeman's Journal” and other papers—photographs of engines that were being imported from Byer and Peacocke of Manchester. As a matter of fact I have seen some of these engines quite recently, and I think in any compensation or any money being paid out of State funds for the renewal of rolling stock, that this particular department should keep a very close eye on the companies concerned, and see that any rolling stock destroyed in the recent troubled period will not be replaced from Byer and Peacocke of Manchester, or any other people outside. The reason I draw the attention of the Minister to this matter is, there is a considerable amount of unemployment in the particular trades that can help in the manufacture of engines and carriages, and there seems to be a disposition on the part of the railway companies—particularly in the case of one company that has big works in this country—to import engines and carriages that could certainly be made in their own works.

I hope that the Minister and the person at the head of this Department will watch this thing carefully, and see that no rolling stock is replaced at the expense of the Government by being imported from the firm I have referred to, or any other firm across the Channel.

Mr. WHELEHAN: The complaints to which the Deputy refers were made of one Company only. Of course, the Deputy will realise we have no power to compel them in the ordinary course of business to buy here, there, or anywhere else. However, we have been in communication with a particular Company, and that Company has agreed that where stock is being replaced through payment made for compensation in regard to damage of rolling

stock in the past, it will consult us first before placing any orders for such stock.

Mr. DAVIN: I understood from a reply the President gave to a question I asked on the Compensation Bill concerning the railways, that it was only fair to expect that any money given to a Railway Company or Companies should be utilised within the Saorstát for the replacement of destroyed rolling stock. I want the assurance given on that occasion to be safeguarded, and that no money will go out of this State to take away from the ranks of the unemployed in England when it could be utilised here with the very same object. The Minister says that the Company gave an assurance that it would consult the Government. I take it that it is up to the Government to see that any promise the President made—and I assume it to mean that rolling stock would be replaced by being made in the Companies' own works—will be carried out. It is not merely a question of consultation; the Ministry should insist on the carrying out of that undertaking given by the President.

Mr. WHELEHAN: We will do everything we possibly can to see that that undertaking is carried out.

Mr. CORISH: Arising out of an answer given to me in connection with railway freights, if it is proved that a particular industry was suffering in consequence of high freights, will the Government make representations to the Railway Companies?

Mr. WHELEHAN: I have already made two representations of the very nature suggested, to certain Railway Companies, one as late as yesterday.

Mr. JOHNSON: I want to raise the question of Trades Boards. I am glad to note there are two Inspectors for Trades Boards included in this year's Estimate. They did not appear in last year's Estimate and probably this is due to a rearrangement. I would like to have some word from the Minister regarding what is contemplated in respect to Trades Boards. I think there are indications that the policy of the Ministry is undergoing some change in regard to them, and I am hopeful that we will get a reassurance from the Minister that they are not thinking of following the lines of

the British Government in this matter. The organisation of Trades Boards has been valuable and has helped, I am convinced, to promote to some degree that efficiency of organisation amongst the employers that the Minister in his opening statement put forward as something to be desired. There is a protection of the better organised and more efficient industrial establishments through the establishment of Trades Boards, and I would urge that it is desirable to maintain this policy and not to try and revoke it even to the degree that they are doing in England. I think that there may be improvements made, and I think there should be some rearrangement in regard to the Boards which at present exist. In this as in so many cases we have simply taken over the practice that has prevailed in England and have put into a single Board classes of Trade which are not fitting. I refer, for instance, to the hats, caps and millinery Trades Board. That is just an instance where you have, as in England, a very big machined millinery trade. It might be quite appropriate in England, but it is not appropriate here to tie together under the one Board hats, caps and millinery, because millinery is not a factory industry in this country.

I would urge the desirability of finding a method of consultation, conference, or joint meeting occasionally, between Boards which deal with similar classes of trade. Take the stitching industries; you have hats, caps, millinery and tailoring Boards, wholesale and retail Tailoring and shirt-making Trades Boards. It seems to me that some advantage would be gained if methods could be found for bringing those Boards into some kind of conference, to have something like a co-ordinated policy, so that there would not be the inducement for apprentices, or learners in the one trade, whose wages are fixed at a certain rate, being transferred to another trade, say, where wages are fixed at a lower rate. I think that some kind of co-ordination between trades which deal with somewhat similar materials should be attained. In this respect I am thinking more of the learners in the trades and the rates that they fix for learners. There is, perhaps, another suggestion that one might make with regard to the better organisation of the Trades Boards, and it may be more appropriate to put this suggestion forward in writing, provided we have some assurance from the Ministry that their

intention was to continue the Boards, and to improve and strengthen rather than to weaken them. I think that there are signs that the Ministry is thinking of a change, but before going very far in this criticism I would like to have some views expressed from the Ministry as to what their mind is on this matter.

Now, I come to the question of Factory inspection. I would like to urge upon the Ministry the necessity for increasing the number of Factory Inspectors, and seeing that their work is done more thoroughly in the next year than it has been done, or perhaps has been possible to have it done, in the last couple of years. In the appointment of Factory Inspectors, I would suggest that there should be a preference given to persons who have some knowledge of the work of factories, some knowledge, from practical experience, of factory life. I know this is a difficult proposition, and I know that it is not always the person who has the most intimate knowledge of factory life who makes the best Factory Inspector. But where it is possible to find such a person with the knowledge, capacity and ability which is required of a Factory Inspector, who has also practical experience, it is very desirable that the practical experience should be taken into account and preference given to such a person. In respect of the Inspectors under the Trades Boards, it is especially valuable to have an Inspector who has had some experience of the working of the industries that he has to inspect. I am sure that the Minister's own experience will confirm that statement. There are so many tricks, there are so many bye-ways, there are so many opportunities for the cute employer who sets himself out to evade the law in these matters, that one who knows the industry in its inner workings is usually better able to pick out the flaws, and point out the defects, than one who would come to it fresh and without any practical knowledge. I would, therefore, press upon the Ministry the necessity of increasing the number of Factory Inspectors and, where possible, to include in the number people of experience in the working of the kind of factories or of the Trades Boards that they will have to deal with. I hope the Minister will make some statement and give us some assurance on the question of Trade Boards. I will defer any further statement I have until I hear that.

Mr. WHELEHAN: With regard to the question of Trade Boards, which Deputy Johnson has raised, the system in all respects is not working satisfactorily. The Orders that have been given by some Boards have proved very difficult to enforce, particularly in smaller towns throughout the country. Sometimes in the reports which come from the Trade Boards it has been found that the conditions of the particular place have not always been fully considered. The Ministry has been in consultation with some of the Boards as to how the difficulties of the kind, which I have suggested, may be overcome. The Boards up to the present have not made any useful suggestions to us. The whole question of Trade Boards needs very careful consideration by the Ministry. We find that as a result of the work of these Boards up to the present we have not come to any definite conclusion about the future of these Boards, or the lack of future, and we certainly shall be very glad to have any views which Deputy Johnson may give us. I think he suggested putting something in writing about the matter. His views will have very full and careful consideration when the whole question of Trade Boards comes under consideration. With regard to Factory Inspectors, the Ministry has, as the Deputy is aware, more than one kind of inspector and we are not sure it would not be better—certainly it would be more economic, and we do hope it would make for greater efficiency—if we combined the duties of the Inspectors. The general principle which the Deputy has stated, that when a candidate for inspectorship had any practical knowledge of factory work he should have preference for appointment, is one with which I fully concur. That is the view of the Ministry at present. I may state that at present the whole question of inspectorship is under consideration.

Mr. JOHNSON: I feel that the statement of the Minister regarding the future of Trade Boards is rather ominous. The statement that they have not been working satisfactorily in the small towns and that the Boards have not been able to make any suggestion to remedy the evil that may be complained of by those who made the complaints rather suggests that the complaints about the working of the Boards have come from a class of employer who always did oppose the

Trade Boards and wants to have a chance to compete in the small towns with low-paid sweated labour against the better organised and higher paid labour of the City. It is because I feared that there was something like that afoot I raised the question. I hope that the Ministry will not commit itself to any change of policy with regard to the Trade Boards without having had a very full inquiry and a thorough discussion with all those people interested in the Trade Boards. The Boards have undoubtedly served a valuable purpose in the country and have protected the sweated worker and have protected the employer who tried to be fair against the competition of employers who had no desire to be fair but merely took advantage of the distress and need of the unemployed and poor workman, woman, or child. It will be a very bad day if the policy of the Trade Boards is thrown over board, and I am very fearful that the influences that have been at work with a view to the abolition of the Trade Board may be having some effect upon the mind of the Ministry. I hope, as I say, without going further into the matter, that the Minister will be very slow indeed to commit himself to any policy which implies the abolition of the Trade Boards.

Mr. WHELEHAN: I can assure the Deputy that the consideration that is being given to the question of the Trade Boards at present by the Ministry is very, very careful, and I have asked the Deputy to be good enough to let us have his views on the subject in writing. His views will, I am sure, be well considered and be very well worthy of the consideration which they shall get. At the moment the Ministry is not committed to any policy with regard to the future of Trade Boards. I quite fully recognise that the principle of the Trade Board is a good one and the difficulties which have arisen have been difficulties of administration throughout the small towns of the country. The difficulties are not so easily recognisable in cities. The Deputy may be fully assured that the matter shall have very earnest consideration, and I would again press him to be good enough to submit his views on the question in writing to the Ministry.

Mr. DARRELL FIGGIS: At an earlier stage I asked the Minister if he would make a statement to-day generally with regard to two or three strikes that

are disturbing the country, and particularly with regard to the Dockers' Strike. Statements are made in the paper from day to day, and we have not yet had represented to us exactly what the Department has done to bring this to an end. It is a matter that hardly requires to be stated in this Dáil, that from the first moment the strike was started, the Department was busy in the matter. I urge an opportunity should be taken in this particular section of the Vote to deal with that in as much as it seems to me to arise under it. I would urge the Minister to deal with that matter. Seeing the hour is so late I would suggest we report progress, and that he make a statement on the situation at the opening of to-morrow's business.

Mr. WHELEHAN: No doubt the Deputy has the interests of the community at heart and is anxious to see this great Dockers' Strike settled. So am I. That Minister who the Deputy considers does so little work has being all day busy in connection with this strike. Early this morning he was engaged in connection with it. We have kept constantly in touch with both parties to this dispute. We are keeping in touch with them, and I do not think that any fuller statement from me at the moment is going to be in any degree helpful to the conclusion of the dispute.

Mr. JOHNSON: Before passing from this may I just say this. It is liable to get into common circulation that this is a strike. It is not a strike. I ask the Dáil to bear that in mind, to ask yourselves what is a strike. Here you have a large number of men who are employed on certain terms and on a given day the employers say "You shall not work any longer unless you take certain other terms." That is not a strike. That is definitely a lock-out. I would very much prefer in a matter of this kind, which will perhaps assume very big proportions, that there should be some clarity of thinking on the matter at the early stages. The employers have taken the initiative in this matter, and they have locked out their workmen because they would not accept lower wages. It is not a strike, it is a lock-out.

Mr. WHELEHAN: I did not refer to it as a strike.

AN CEANN COMHAIRLE: The Minister used the word "dispute."

Mr. DARRELL FIGGIS: I used the word strike as a general connotation of it. I desire to substitute the word "dispute."

AN CEANN COMHAIRLE: We will take up the Estimate on Statistical Department next.

Mr. JOHNSON: I am sorry to be always on the job but I would ask if it is possible to circulate to members or at least to those who would like to have the particulars, details regarding unemployment and any other matter of that kind that is likely to be of public interest to members of the Dáil. There are statements issued periodically to the newspapers. Usually they are only summarised in the newspapers. The details would be of interest to members, and there are other statements, which are circulated within the service, of value, that I think members would be able to make public use of. It would not be a matter of cost, for I think the extra cost would be infinitesimal. I would urge that at least matters which are circulated to the newspapers and other statistical matters of public interest be circulated to the Dáil.

Mr. DARRELL FIGGIS: I endorse what Deputy Johnson has just said. I have mentioned once or twice before that the information gathered by the Statistical Department, which I take to be the Department that was once functioning under the Department of Agriculture, should be made available for all Deputies. In connection with a Commission that I was connected with some time ago I wrote to two or three countries for statistical information with regard to certain matters of trade and industry, and that information was fully provided in printed form and as much of it as one wanted. When I wrote to one of these countries thanking them for their courtesy in sending information their reply was that it always afforded them the greatest pleasure to give the fullest possible information to everyone in regard to their country. I am sure that is a perfectly sound attitude. I am convinced that all information in our own department should be made available for all Deputies. We have all been interested in a document published in Ireland from year to year containing

[Mr. Darrell Figgis.] the statistical report on Imports and Exports. That document is sold at the very heavy price of 10s. It used to be sold at a very much lesser price. I think it is not quite fair that Deputies should have to pay that sum in order to get information concerning the work of their own Departments when one of their Departments exists for gathering the information for their benefit, and primarily I take it for the benefit of those charged by the Nation with the conduct of their National affairs. There is information of that kind and there are monthly statements also which some of us make it our business to see. I think that is an expense placed upon Deputies which should not be placed upon them. I do not know, and would be obliged if the Minister would make a note of it how far this Statistical Department is concerned with the duties that fall to the Department of Industry and Commerce. I believe that the old Statistical Department when it was attached to the Ministry of Agriculture had under its care other matters than matters that normally would fall to the Department of Industry and Commerce. It had Agricultural financial statistics, and how far these are still retained by that sub-Department that has been taken over I do not know, and I would be glad if the Minister would tell us. I suggest that all the information printed by this Statistical Department should be made available for Deputies' or if that is too much to ask, then that it should be, at least, supplied to those Deputies who ask for it and made available for them without charge.

Mr. WHELEHAN: The object of setting up a Statistical Department at all was to collect and publish Statistics for the public and the State. With regard to Deputy Johnson's request that detailed statistics of unemployment should be given to Deputies, I will inquire to see how far we may be able to reach on that request. The Statistical Department has only just installed tabulating machinery, and the Deputy will appreciate that up to the present the process of totalling and tabulating has been a tedious and difficult one. Summaries which appear in the Press are practically the only data given to the Press. The Press did not, in every case, get detailed statistics, and I shall endeavour to have the wishes of Deputy

Johnson in the matter complied with as far as we possibly can. I have answered one part of Deputy Figgis's question. It is intended that these Statistics should be made available to the public and much more so to members of this Dáil. The work which the Statistical Department will execute at the request of the Minister for Agriculture was formerly compiled by the Department of Agriculture and Technical Instruction, and will now be compiled by the Statistical Department of the Ministry of Industry and Commerce. Under the old regime the Department of Agriculture and Technical Instruction compiled, not alone statistics of agriculture, but also trade statistics. They did that with a view to economy. Now it will make for economy in the present case to have all the statistics compiled by the one Statistical Department, and we hope that our service will be found more efficient than was the very efficient service given by the Statistical Department of the Department of Agriculture in the days that were.

Mr. JOHNSON: I am interested to learn that the Department of Agriculture's Statistical Department will come under this Department. I did not realise that at first, but I would just like to ask this question respecting a very valuable annual report known, I think, as "The Prettyman-Newman Annual Report." It was for many years published in response to a motion calling for a return dealing with average prices covering a five or a ten-year period—average prices of agricultural produce. That has been printed every year, and it has been a help to those who desired it, at a very low rate. I think that report should be available in the future, and I would hope that the form of it at least would be maintained, and that the report which has been so long prepared should be continued, even though it is not published in the form that it was in the past, and that the figures at least should be available in the same form. I would ask the Minister to make a note of the desirability of keeping the return in the same form as it has been published hitherto, so that comparisons may properly be made as between the figures in the future and in the past. The return is a valuable one and may be familiar to members, and it would be a pity if its continuity were to be broken because of the change in the administration.

Mr. WHELEHAN: I agree with Deputy Johnson that the return to which he refers was a most valuable and interesting one. I shall have a note made, as he requests, and submit it to the Minister for Agriculture. If he decides that such a Report is to continue, our Statistical Department will certainly execute it.

Mr. DARRELL FIGGIS: I was not quite able to understand the Minister's reply to me in which he stated, if I remember correctly, that this information was intended for the use of the public and *a fortiori* for members of this Dáil. Is it to be inferred from that, that members of the Dáil can have these reports if they want them? I suggest that if anyone is prepared to read the volumes on imports and exports, for example, that they ought to be encouraged to do so, whether a member of this Dáil or not.

Mr. WHELEHAN: I am probably one of those who, like the Deputy, believes

that the Dáil ought to have a very complete Law Library, a General Library, and a Statistical Library, where all these returns would be available for members who might be of a forgetful disposition, and leave their returns behind. I am certainly of that opinion. The Dáil, too, very obviously could decide what literature it is to have, and what literature it is not to have. I submit, and I think it very plain, that if the public are to have these Statistics, surely the members of the Dáil ought to have them too.

Mr. BLYTHE: I beg to move that the Committee do now Report Progress and ask leave to sit again to-morrow.

[Agreed.]

THE DAIL RESUMES.

Progress Reported. The Committee were ordered to sit again on Wednesday, 18th July, at 3 o'clock, p.m.

The Dáil adjourned at 8.30 p.m.

DÁIL EIREANN.

DE CEADAIOIN, 18^{ADH} IÚL, 1923.

(Wednesday, 18th July, 1923.)

Cromadh ar obair an lae ar a 3.10 p.m. Bhí an Ceann Comhairle, Mícheál O hAodha, sa Chathaoir.

CEISTEANNA—QUESTIONS.

[ORAL ANSWERS.]

GENERAL ELECTION.

DARGHAL FIGES asked the President how long after the completion of the Register it has been decided that the General Election will be held.

The PRESIDENT: The Register is not yet complete, and I am not in a position to make any further announcement on this matter at present.

Mr. DARRELL FIGGIS: I would ask the President if, irrespective of the present Register, it could be stated how long between the completion of a Register and the General Election it is judged opportune for an election to be held? What time should elapse?

The PRESIDENT: I have stated that I am not in a position to make any further announcement beyond what I stated to the Dáil on Monday last.

THE REGISTER.

DARGHAL FIGES asked the Minister for Local Government when it is expected that the Register will have been completed?

MINISTER for LOCAL GOVERNMENT (Mr. E. Blythe): Considerable progress with the Register has now been made, but a definite date for its completion cannot yet be stated.

If the Deputy will repeat this question in a fortnight's time I shall be in a position to give full information, and a date for publication will probably have been prescribed by them.

Mr. DARRELL FIGGIS: Would it be fair to assume from that answer that it is expected that the Register will be completed or about to be completed in a fortnight's time?

Mr. BLYTHE: No.

CAHIRCIVEEN ARRESTS.

THOMAS MAC EOIN asked the Minister for Home Affairs whether he is aware that on June 19th a Sergeant of the Civic Guard ordered James Burke and Jeremiah Murphy, working a private unlicensed ferry with privately owned boats, to ferry cattle from Feighmane Farm, Valencia Island; whether, on the refusal of the ferrymen, the cattle were ferried across in their boats by the Civic Guard and military, and the two ferrymen were arrested and conveyed 50 miles to Tralee; whether the ferrymen and John O'Driscoll of Valencia, arrested next day, were charged before a Special Court for conspiracy and were remanded, the ferrymen being required to give an undertaking to ferry cattle in the meantime; and whether the Civic Guard have any authority to interfere in this way with the working of a private ferry.

MINISTER for HOME AFFAIRS: (Mr. K. O'Higgins): In February last John O'Driscoll was arrested and brought before a District Justice, charged with illegally removing cattle from the lands of his mother, Mrs. Ellen O'Driscoll. He was allowed out on bail on giving an undertaking not to interfere illegally with the land again. It is reported that since that date O'Driscoll continued to conspire with others, including James Burke and Jeremiah Murphy with a view to preventing Mrs. O'Driscoll from using the land, or from having her cattle conveyed to and from the mainland. Burke and Murphy are boatmen plying for hire between Valencia and the mainland; and, while conveying the cattle of others, they refused to convey those of Mrs. O'Driscoll. In consequence of this refusal they were warned that if they persisted they would be arrested and charged with conspiracy. On the 19th ult., they again refused to convey Mrs. O'Driscoll's cattle, while accepting for conveyance the cattle of other people. They were then arrested and with John O'Driscoll, were brought before a District Justice who allowed them out on bail on their giving an undertaking that they would not again interfere with Mrs. O'Driscoll in the management of her farm, and on a further undertaking by Burke and Murphy to convey her cattle at the usual charges when required to do so.

Mr. JOHNSON: Does the Minister

suggest that it is not to be allowed that a man may refuse to work for another?

Mr. O'HIGGINS: I have endeavoured to explain to the Deputy that a conspiracy against Mrs. Ellen O'Driscoll was on foot in which her son, John O'Driscoll was the prime mover, and in which James Burke and Jeremiah Murphy were participants. The refusal to carry cattle from the island to the mainland while carrying the cattle of others was merely one phase of the conspiracy. Supplementary information which I have here, makes that, perhaps, clearer. In February last John O'Driscoll was arrested and brought before the District Justice, and charged with the illegal removal of cattle from the lands of his mother, Ellen O'Driscoll. He was allowed out on bail on giving an undertaking not to interfere with the land again, and not to make any further claim thereto except by due process of law. Since that date John O'Driscoll has been boycotting his mother, and is believed to have conspired with others, including James Burke and Jeremiah Murphy to prevent Mrs. O'Driscoll from using the land and having her cattle brought to the mainland. James Burke and Jeremiah Murphy own a boat in which they ply for hire between Valentia and the mainland, and in which the cattle of the Islanders are carried. These men, while conveying the other cattle, refused to convey the cattle of Mrs. O'Driscoll on several occasions. The Civic Guard were instructed to warn them if they persisted they would be arrested and charged with conspiracy. On the 19th June a fair was held in Cahirciveen, and while James Burke and Jeremiah Murphy accepted for conveyance the cattle of others on the Island they refused to convey Mrs. O'Driscoll's. This is part of the conspiracy. They were arrested, and along with John O'Driscoll who was also arrested, they were brought before the District Justice. They were allowed out on bail after giving an undertaking that they would not again interfere with Mrs. O'Driscoll, in the management of her land, and Murphy and Burke undertook to convey her cattle to and from Valentia at the usual charges. These steps were necessary to break the conspiracy against Mrs. Ellen O'Driscoll in the management of her land.

QUESTION ON ADJOURNMENT.

Mr. JOHNSON: I give notice that I will call attention to this Cahirciveen arrest on the adjournment.

UNEMPLOYMENT CLAIMS.

AODH O CULACHAIN asked the Minister for Industry and Commerce whether he is aware that in a large number of claims for Unemployment Benefit in Newbridge Branch Office of the Labour Exchange no payments have been made yet, though some of the men have been signing up for eight or nine weeks, and, as a result, are suffering much privation and hunger; whether this delay in dealing with claims is due to the understaffing of the local office, only one clerk being employed; and further, whether the Minister will give orders to expedite payment to all claimants affected and take such measures as may be necessary to prevent such delays in the future.

ASSISTANT MINISTER for INDUSTRY and COMMERCE (Mr. J. B. Whelehan): The Deputy has given me ten cases in which delay has occurred. In nine of these cases certain facts came to light which have rendered necessary an investigation of the claims in question. These investigations are not yet complete, but efforts will be made to bring them to a speedy conclusion. Meanwhile, benefit cannot be paid on the current claims of the persons concerned. The delay in payment is due to this cause and not to the under-staffing of the Local Office as suggested in the question. In the tenth case there has been a question of the refund of contributions paid in error, and consequent on the refund the rights of the applicant to benefit which are dependent on the contributions remaining to his credit have had to be reviewed.

Mr. COLOHAN: Is the Minister aware that a second clerk was appointed yesterday morning to that particular office? Therefore, I think that the office was understaffed. I would also like to bring under notice of the Minister that there are complaints coming in about that office for the last twelve months. I would wish that he would see that the payments of claims are speeded up better than they were in the past.

Mr. WHELEHAN: I have endeavoured to point out to the Deputy that the ten cases in which he is interested, and which he has submitted to me are cases where investigation has been found necessary because of alleged certain practices on the part of persons making the claims. The payment of these claims consequently cannot be due to want of staff in the local office.

ORDER OF BUSINESS.

AN CEANN COMHAIRLE: It is intended to resume the Estimate which was uncompleted yesterday now. The Dáil will go into Committee on Finance.

MINISTER FOR AGRICULTURE (Mr. Hogan): Are we not taking the Land Bill? It is first on the Paper. I am informed by the Assistant Minister for Industry and Commerce that his Estimates will not take very long, so I daresay it is just as well to proceed with the Estimates.

AN CEANN COMHAIRLE: I was informed that the Estimates were to be taken first. It is rather ridiculous that one Minister makes one arrangement and another Minister makes another arrangement.

Mr. HOGAN: I have made no attempt to make any arrangements, and the Ceann Comhairle should be a little more careful in the use of his adjectives.

Mr. JOHNSON: Order.

AN CEANN COMHAIRLE: I was informed the Estimates were to be taken first. That arrangement was made yesterday evening. I made that announcement and the Minister for Agriculture rose now to alter that arrangement. That is the case.

Mr. HOGAN: When did you make the announcement?

AN CEANN COMHAIRLE: Just now I announced that the resumed debate on the Ministry of Commerce and Industry Estimate would be taken first.

Mr. HOGAN: I understood you to ask whether the Estimates would be taken first, and even if you did make the announcement it was perfectly open to me to make another suggestion.

AN CEANN COMHAIRLE: It is open to the Government to make arrangements as to how it is to conduct its

business. When one Minister has made an arrangement it is surely, to put it mildly, trying, that another Minister should not know of the arrangement, and should endeavour to alter it.

Mr. HOGAN: Trying on whom? I think the Ceann Comhairle should learn to bear these things with a little more equanimity.

AN CEANN COMHAIRLE: It is a ridiculous method of conducting business, and the Minister for Agriculture will have to learn to conduct his business properly. I am here to see that it is conducted properly.

Mr. HOGAN: I think you ought to take lessons in that art also yourself.

AN CEANN COMHAIRLE: Order. I will not take any further impudence from the Minister for Agriculture. He should learn something about the Order Paper before he comes into the Dáil. He should know the order in which Government business is to be taken, and he should not be interrupting it. When the matter is explained to him he should not endeavour by any use of language to avoid the point. The Minister for Agriculture is not going to be allowed to be impertinent, and the Minister for Agriculture will have to learn that he cannot be allowed to be impertinent to me here. If the Minister for Agriculture desires now to continue the matter—

Mr. HOGAN: I desire only to say this—that you are in a position to lecture at the moment.

AN CEANN COMHAIRLE: That is simply further impertinence from the Minister for Agriculture. I would like the Minister for Agriculture to learn that this is not the place for a display of impertinence.

Mr. HOGAN: I have nothing to add to what I have said.

Mr. DARRELL FIGGIS: I do not wish to add to anything that has been said, but I do feel about what has occurred that if any other Deputy had been guilty of saying the things that have been said against the President over this Assembly he would be required to withdraw them. Surely it is but just to the Assembly as a whole, as well as to you, that these things should be withdrawn.

AN CEANN COMHAIRLE: I have no desire to have things withdrawn. I

am merely interested in the proper conduct of business, and the remarks of the Minister for Agriculture, and his persistence in them, constitute more a reflection on himself than on me. The Dáil will now go into Committee on Finance. The Estimate under discussion was for the Ministry of Industry and Commerce, and the amount moved was £193,445; £102,000 was voted on account. We had arrived at the sub-head "Office of Consulting Engineer to the Government."

COMMITTEE ON FINANCE.

ESTIMATES FOR PUBLIC SERVICES.

MINISTRY OF INDUSTRY AND COMMERCE—RESUMED.

Mr. DARRELL FIGGIS: May I suggest that if you turn to the penultimate page of the information before us, although we had completed the Statistical Department, we had not arrived at the Intelligence Branch.

AN CEANN COMHAIRLE: That is so.

Mr. DARRELL FIGGIS: With regard to the Intelligence Branch, the Assistant Minister for Industry and Commerce, in his introductory statement yesterday, gave us a certain amount of information with regard to the existence of such a branch as this. I do not know if I correctly interpreted him, but it seems to me that the chief service of the officers of this Branch in the Ministry would be to render information to traders as to the opportunities available in other countries, and that such intelligence would be most effectually made available by way of a trade journal, and that certain recommendations had been made by the Department to the Ministry of Finance that such a journal should be established. I think it will be a matter of general agreement that a journal of this kind would be of the very greatest service to the trade and commerce of Ireland. It would be of service, not merely to the traders in this country, but to those in other countries because we have always, in matters of this kind, to remember the fundamental rule that whatever exports occur have to be paid for by imports. Therefore, if we cannot

encourage imports we are not in a position adequately and most economically to encourage an export trade. Intelligence of this kind is as valuable to people outside this country who desire to do business with us as it is for people inside the country who desire to do business with nations outside. Therefore, it would be agreed that the inception by the Department of such a trade journal is a very important one and one that cannot help to prove to be of the greatest possible value to this State.

Yesterday when the matter was mentioned, we had not the opportunity or the advantage of having with us the Minister for Finance, who is in charge of the Department to which the proposal was put. That advantage, which was denied us yesterday, has been made available to-day and perhaps opportunity might be taken by the Minister for Finance to let us know how his Department considers this proposal. Deputy Johnson yesterday, somewhat mordantly but with plenty of justification by recent history, suggested that the formulation of such a project as this was one thing, but its fruition was entirely a different thing. Therefore, I urge, in the first place, that somewhat full information as to the exact purpose of this Intelligence Branch may be furnished to the Dáil, both in the event of such a journal being established and in the possible event of its not being established—what then is the Intelligence Department to exist for, and how best can this information be made available to this country and outside countries? In the second place I desire to inquire if the Minister will throw any light regarding the possibilities of such a journal being founded.

Mr. WHELEHAN: Yesterday, in making a general statement on the Estimates, I referred to the Intelligence Branch of the Ministry, and it is hardly necessary to point out to Deputy Figgis that an Intelligence Branch is an Intelligence Branch, that its business is to collect information useful for the citizens and to distribute that information, when collected, to the best possible advantage. A method of doing that is at the moment under consideration in the Ministry of Finance, and I have no doubt that it will receive very full consideration at the hands of the Ministry. I do not think that I can add anything to that statement at present.

AN CEANN COMHAIRLE: We will pass on to the next item:—"Office of Consulting Engineer to the Government."

Mr. DARRELL FIGGIS: I was endeavouring yesterday to get some information with regard to this branch of the Department. I cannot congratulate myself that I was very successful in getting much or any information in a very knowledgeable form, but it was definitely stated that Consulting Engineer's salary, whatever it was, did not appear in this Department's Estimates, and it was suggested that it was a matter for the Ministry of Finance, and when I desired to get the terms and conditions of his appointment I was also referred to the Ministry of Finance. Now, that is a little remarkable. It is perfectly clear that no salary figures in these Estimates, and it is also quite true that no salary figures in last year's Estimates, but there was a Supplementary Vote attached to last year's Estimates, and in that Supplementary Vote appeared these words, "a Supplementary Estimate of the amount required in the year ending 31st March, 1923, to pay." Then is set out a category of various items that are to be paid and amongst those items is this.—"to pay the fees and expenses of the Consulting Engineer to the Government." That is in the Supplementary Vote last year of the Ministry of Industry and Commerce. We are informed now that the fees and expenses are not now under this Department, but they were in this Department, apparently from those words, so late as a Supplementary Estimate that had to cover expenses up to the 31st March of this year. It is very definitely and distinctly stated that the fees and expenses were the fees and expenses of the Consulting Engineer, whereas we were informed yesterday that he was not a person, but a firm. That, I think, is another change that requires a certain amount of explanation. I wish just to emphasise that before I pass on. Last year the fees and expenses of an individual, who has since become, apparently, a firm, were charged in the Vote for the Department of Industry and Commerce, and that is now no longer the case, and it was indicated yesterday—I want to be perfectly just to the Assistant Minister that he did not say so, but, at least, to my interpretation he suggested—that these fees and expenses that appeared last year under the Ministry

of Industry and Commerce, this year are to be found under the Ministry of Finance.

I looked through the Vote for the Ministry of Finance, and I failed to find there any such Vote at all. I am, therefore, moved to inquire whether any fee is paid to this firm or individual at all, and, if so, if such salaries are being paid, what they are and where they appear, and on what scale they have been framed. If it should be the case, as I think very possibly, that no salary is paid, and no fees appear anywhere, then I think we ought to be informed in what way the Consulting Engineer gets his remuneration. I am bringing this matter forward here as a Deputy, and it is not a very pleasant duty. I have been urged to do so because I am authorised to say that the position of Consulting Engineer has aroused a great deal of perplexity in the profession as a whole, and the matter has been receiving the very earnest attention of the profession. It is a remarkable fact that the Consulting Engineer, acting as a Civil Engineer, advising in matters of very great importance in Civil Engineering contracts, is not a member of the Institution of Civil Engineers. That is an unfortunate occurrence. I believe it should be asserted as a principle that a firm or individual acting as Consulting Engineer to the Government should be required to be a member of the Institute, or that particular branch of Engineering for which he is called to give his specialised advice. There is a reason; it is not a question of *amour propre*. It is not a question of asking him to fall into line with his brothers in the profession. There is an earnest desire for this. I will read the rules framed by the Institute.

Mr. WHELEHAN: On a point of order, I must really ask what particular item in our Vote is the Deputy discussing?

AN CEANN COMHAIRLE: There is a certain difficulty about the Vote. This is a Vote for money for the office of Consulting Engineer to the Government. Deputy Figgis is going into the question of the Consulting Engineer himself, and it seems to me to be a matter for arrangement whether we are to take the whole thing here as if the Consulting Engineer's salary were here or take the whole thing in another place,

where the Consulting Engineer's salary may appear. Does it appear anywhere else in the Votes?

Mr. WHELEHAN: I understand the Ministry for Finance bears all charges in connection with railway compensation and reconstruction and fees for advisory work in connection therewith, and the Supply Department will bear any costs arising under purchases, and it is in connection with the Vote for those matters that a Consulting Engineer's salary will arise. I do not know what way he is paid. Deputy Figgis alluded to the provision made in our Supplementary Vote last year for the fees of the Consulting Engineer. It will relieve the Deputy's anxiety to know that at the time the Supplementary Estimates were compiled we were not sure that our Ministry would not have to bear the expenses of the Consulting Engineer, and consequently that provision was put in. Eventually it turned out that we have to bear only the expenses of the clerical workers in his office. Our Vote does not carry the salary or remuneration of the Consulting Engineer.

Mr. DARRELL FIGGIS: In this matter I am speaking distinctly and clearly to book and at request. It is a matter of indifference to me under which Vote I raise the question. It did distinctly appear on the Supplementary Estimate that it was a matter for the Ministry of Industry and Commerce. I desire now only to know where I may raise this matter, which it is proper to have raised, if I may use the expression, to know under which particular thimble I am to find my pea. The matter ought and requires to be raised. If I can be told exactly how and where I can raise it I will raise it in that connection. But I do suggest it is not very candid to be posted from one place to another, and finally not to be allowed to raise a matter which is of urgency to people outside.

Mr. WHELEHAN: The Deputy has used the word "candid." I will be candid in the matter, and I will tell the Deputy here and now that his feelings are not altogether so impersonal as he would wish the Dáil to believe. If the Deputy wishes me to proceed further and be more candid I shall do so. I have said that our Vote does not bear

or carry the salary of the Consulting Engineer. It does not, and I hope the Dáil will agree with me that I am quite candid in the matter. I have told the Deputy plainly what the position with regard to the preparation of the Supplementary Estimate is, and I think I will say no more.

Mr. DARRELL FIGGIS: I am perfectly prepared, and I intend, to refer fully to the matter to which the Assistant Minister has referred. It was my intention to have done so in order that the Dáil might know exactly where I stand in the matter. I think the right procedure from me in the matter would be to move now, as I formally do, that the Vote be reduced by the sum of £807 in order to raise the question, on which no information is now available before the Dáil, and I desire to ask you, A Chinn Comhairle, whether I would be in order in raising this question now by moving a motion for the reduction of the Vote, and if I am permitted to do so the Assistant Minister for Industry and Commerce will find that there will be no lack of candour.

AN CEANN COMHAIRLE: This is a Vote for the office of the Consulting Engineer to the Government. It seems to me that relevant to this Vote the question might be raised as to the necessity for a Consulting Engineer, as to what his duties are, and as to why he should be provided with an office. But certainly if a Consulting Engineer receives, as we presume he does receive, fees or salary, the question of the Consulting Engineer himself should be raised where the payment for his services comes in. Deputy Figgis will be quite in order to move to reduce the Vote by £807; that would certainly enable him to go into the question of the duties performed by the Consulting Engineer and the necessity of his having an office.

Mr. DARRELL FIGGIS: In that case I move the reduction of the Vote by the sum of £807. If there is any necessity for such an office it can only arise, I think, by the necessity for having a Consulting Engineer, and if there is necessity for a Consulting Advisory Engineer then I lay it down as what would be recognised by the profession as a principle that that Consulting and

[Mr. Darrell Figgis.]

Advising Engineer should be a member of the Institute.

That is not merely a question of professional feeling upon the matter; more is involved. I will read out the regulations and the by-laws of the Institute, from which it will be seen exactly what protection is afforded to clients of such an Engineer by his belonging to such an Institute. The first regulation is:—

(1) He shall act in all professional matters strictly in a fiduciary manner in regard to any clients whom he may advise, and his charges to such clients shall constitute his only remuneration in connection with such work. (2) He shall not accept any trade commission, discounts, allowances, or any indirect profit in connection with any work which he is engaged to design or superintend or with any professional business that may be entrusted to him. (3) He shall not, while acting in a professional capacity, be at the same time, without disclosing the fact in writing to his client, a director or member or shareholder in, or act as agent for, any contracting or manufacturing company or firm or business with which he may have occasion to deal on behalf of his client, or have any financial interest in such business. (4) He shall not receive, directly or indirectly, any royalty, gratuity or commission on any patented or protected article or process used on the work which he is carrying out for his clients."

The first three objects are a matter of some importance, and if any Consulting Engineer be so employed by any client, be they a Government, a firm, or an individual, they have the protection of the Institute that these regulations shall be observed. That is why the profession has felt that it would be very desirable in the event of any Consulting Engineer being engaged by the Government that that Consulting Engineer should be a member of the Institute of his profession and of that particular branch of his profession in respect of which he is called upon to give professional advice. We do not know what salary he is receiving. It has been suggested outside that there is no salary; that his remuneration does not arise in connection with salary at all, but in connection with contracts, and therefore it is only right that the Dáil should know fully and clearly if the Consult-

ing Engineer has any direct contract with contracting houses or firms or whether all the contracts are contracts that will be placed by a Contracts Committee outside the direct interposition of any such person or anyone who acts with him. We know, for example, the very large powers that are placed in the hands of such persons under the railway agreement, the memorandum of the heads of which has been placed in our hands.

I read:—

"The Railway Company concerned shall furnish to the Government's Consulting Engineer such particulars as he may reasonably require, and he shall forthwith furnish a certificate showing the amount which he considers represents the expenditure reasonably necessary."

All through this document, in fact, this person is appearing in a very necessary way, because if any person is to occupy this position he should have the large powers that are entrusted to him, but if those large powers are to be entrusted to any individual, if those very considerable authorities are to be entrusted to any individual, surely it is not too much to ask not only that he should be a member of the Institution of his profession, and that branch of his profession in respect of which he is asked to give his advice, but, furthermore, that he should be adequately remunerated by the State on a clear and recognised basis, and that he should be a whole-time official having no other connections, and should not be connected with other enterprises. I do not know, but I believe it is true, that the firm or individual that is now acting in this capacity has no peculiar qualifications in the Civil Engineering branch, although it is perfectly true that he has the very highest possible qualifications that might be required in electrical matters, but it is not in electrical matters that the chief part of his advice is needed. Several engineers are anxious to know, and have asked me to elicit, why it is that an electrical engineer should be called upon to give this advice, and not only to give this advice, but to follow this advice with regard to contracts. That is contrary to the procedure generally recognised as correct by the profession. I was told yesterday the name of the firm, and I would like to know if it is an English or an Irish firm. The

firm was stated to be Messrs. Crowley and Partners. Who are the partners? I think I am correct in stating that the partners in this connection are an English house. That is not perhaps a very considerable matter, because I believe we should take advantage of the highest possible information available to this State, and if information is not available from those of the requisite standard, from those who are citizens of the Free State, we should be free to go outside, but we should at least make an attempt to get those who have the necessary qualifications in the Free State. Now, the Assistant Minister for Industry and Commerce charged against me that I was not, in bringing forward this matter for the reduction of this Vote, wholly disinterested. That is perfectly true, but it does not alter the fact that I have been asked to mention these matters here by those who are wholly disinterested. What is the degree of my interestedness in this matter? I will state it perfectly frankly, and put my position and the position involved before the Dáil. I am connected with a certain company. The Minister referred to that company when he was dealing with this Vote in his introductory statement. I am interested in that company, and I have the honour to have as a colleague in that particular enterprise a Senator who is our greatest Irish engineer. We met the Government, and put the entire facts concerning that enterprise before the Government. We informed the Government that there was no information at our disposal, no matter what it cost and no matter what experience it involved either with regard to finance or with regard to engineering, that we were not willing to put before the Government in all its details, and if the Government had required of us that we should put that information before it in all its details we should at once have said that the Government was doing only what the Government of a country should do, namely, to require of an enterprise that it should put its cards down upon the table, and we were prepared to do that. But since that happened the Government's Consulting Engineer has promoted a company with a similar intention.

Mr. HUGHES: And there is the rub.

Mr. DARRELL FIGGIS: Deputy Hughes says that is the rub. That is the rub so far as a legitimate enterprise

is concerned, and I will deal with it, but let me say before I do so that before that situation had occurred I had been asked to raise this matter in the Dáil. I had not intended to go into the other matter, except on reflection feeling that others might be tempted to say that is the rub. I had intended to go into that matter and to put my cards on the table, which I now do with the fullest and completest candour.

Let us see what is involved. A company, never mind for the moment that I am connected with that company, is asked by the Government to put its information, which has cost it considerable expense to acquire, before the Government. The Government's Consulting Engineer is acting, however, in competition in the promotion of another company. Any information, therefore, that this first company puts before the Government, information which has cost it a great deal of expense, is at once rendered available for the rival company, and I think that is a situation that is not desirable.

If I spoke with interestedness in the matter, whatever my interest is, I frankly and honestly confess to it. I nevertheless say that, on its merits, it is not right that a Government, going to any one company, should ask information of that Company when it has, as its Consulting Engineer, a person who is engaged in an enterprise of the same kind, so that the information which that Government reasonably asks is made over normally, naturally to its competitors. I do not believe that will make for commercial wisdom in the future of this country. When I raised this matter, I want to say quite frankly, that I did realise, very fully and fairly realise, that during the past year there has been a very great deal of improvisation, necessarily. No one could blame any Government for having improvised in matters of this kind and gone ahead as rapidly as it could, and I am not blaming them. What I am saying is, if it should subsequently be found that the improvisation leads to commitments that are not natural, not right, not in the interests of frankness, not in the interests of industrial development or professional rectitude, that then the Government should say: "We do not recognise this commitment, and as it appears to have been involved in our original ar-

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 rangement, made in the very best possible interests, we will end an arrangement that has resulted in such a situation." Therefore, I do urge—and I think I am only urging what will appear to everybody, not only to engineers, not only to those who might be, as I have frankly said I am, interested, but to all parties as recognised principles in such appointments—that any person acting as Advising and Consulting Engineer to the Government ought to be a person who is amply recompensed, and being amply recompensed, however widely that word "amply" may be judged necessary, that the individual acting in that capacity should be removed from the industrial sphere and from the contractual sphere, and should be a whole-time official of his clients—in this case the clients being the Government. Then it would be possible to fulfil this regulation of the Institution of Civil Engineers—that his charges to such clients should constitute his only remuneration in connection with such work. I have raised this matter, but I frankly confess to the Dáil that I had not been looking forward to it with any particular relish. I did not desire to do so. I have had a fair amount of experience as a speaker in various capacities, good and bad, and I am not very much afflicted with nervousness, but I have been to-day, because I would very much rather not to have undertaken the task to-day that I have done. But the matter has been brought before me in such a light—whether it be interested or disinterested—that it is no longer evadable, and I have now discharged what I have conceived to be my duty by raising it in the Dáil.

Mr. WHELEHAN: I have just to repeat that the Vote for the salary or fees of the Consulting Engineer does not appear in our Estimates, but in justice to the gentlemen who fill the office of Consulting Engineer to the Government, I think I should intervene here and say that the Consulting Engineer to the Government is a Consulting Engineer; he is not a whole-time Engineer. Who ever heard of a Consulting Engineer being a whole-time Engineer? Drop the word consulting, if he is a Government Engineer, if he is an official, but the Consulting Engineer to the Government is not an official. The Government consults him, and from cer-

tain experiences which I have had in consultation with him, has consulted him to the advantage of the common purse of the State, running into hundreds of thousands of pounds, in connection with one public company alone. He is a Consulting Engineer. I have yet to learn that a Consulting Engineer must be a whole-time official of the Government. What I do feel most about this is, that any Deputy in this Dáil will stand up and read out a code of regulations, setting out in detail the professional code for an Institute of Engineers, and by implication, for there has been implication, leave it to the Dáil to suggest that the Consulting Engineer to the Government has not observed that code; by implication suggest that the very thing which the code makes it incumbent on members of the Institute not to do, are done by this Consulting Engineer to the Government. Now, I think it would become Deputy Figgis as a man, not to speak of him as a gentleman, better if he would repeat outside the Dáil, or in the public Press, a statement on similar lines to that which he has made here, under the privilege of the Dáil, about the Consulting Engineer to the Government. I, here and now, invite him to do so, and I promise him, when he repeats it outside the Dáil, I shall take the matter up, and see that the Consulting Engineer deals with it, or we shall deal with him.

Mr. JOHNSON: This is practically new matter to me, but I think the Minister has not dealt with the case made by Deputy Figgis in a manner the Dáil has a right to require. Apart from the question of the status of the Consultant in his profession—that is, in the professional organisation—there is a statement made by Deputy Figgis that I think should be met. That was, that the Consultant is not a Civil Engineer, but an Electrical Engineer. If the Ministry have called in as consultant, to deal with civil engineering work, a man who is not a Civil Engineer, and are paying anything at all for that service, I think they are misusing public funds to that extent. At least, I think they are spending the funds unwisely. The second point that seems to call for attention is the statement that the Consultant is a promoter of a company, and that the rival company was asked—and this I want to have made clear,

whether it is true or not—to submit particulars relating to their proposed undertaking to the Government, so that the Consulting Engineer to the Government, who is promoting a rival business, will be able to read and take what he can out of them. If that is true, then I think it is a misuse of the position, and I think the Consulting Engineer himself ought not to accept any such responsibility.

The third point that was raised, not quite so directly, by Deputy Figgis was that the Consulting Engineer was rewarded through the medium of contracts which have been given, or may be given, such contracts being upon specifications that have been approved or drafted by that Consultant. I hope I am not misinterpreting what Deputy Figgis alleged, but that is the allegation implied as I heard it. If it is a correct summary of the allegation, it ought to be met. The Minister in his opening statement did, as a matter of fact, claim credit for having called in, or rather having given assistance to firms or companies that were interested in the promotion of electrical supplies for the City and County of Dublin. The kind of assistance that was given is not made known. Whether it was the same kind of assistance to each of the companies concerned we do not know. Was it engineering assistance? Was it consultation respecting finance, or respecting public rights or respecting the Government's attitude towards the schemes that these companies are promoting? In view of what has been said and hinted at here, both by the Minister, in his reference to the consultations with these companies, or by Deputy Figgis, in his reference to the Consulting Engineer, I think the Dáil is entitled to a fuller statement from the Minister in charge of this Vote before we decide to vote for or against the proposed reduction.

Mr. WHELEHAN: In answer to Deputy Johnson, who has asked about the qualifications of the Consulting Engineer to the Government, I may say that the Consulting Engineer is a firm. There are Civil Engineers members of that firm, I understand.

Mr. DARRELL FIGGIS: Who are they?

Mr. WHELEHAN: Deputy Figgis, I think, has asked who are they. If he will put down a question to the Minister

for Finance he will have an answer, I am sure. There is no foundation whatever, for saying that Deputy Figgis, or the company of which I understand he is a director, has been requested to submit schemes to the Government, nor that the Government would ask a firm stated to be interested in another rival scheme to consider it; none whatever. In my opening statement I did refer to the services the Ministry had rendered to certain parties interested in electrical development. One was the Dublin Corporation, and another was the Company of which Deputy Figgis is a director. Both have had exactly similar advice from us, and I told Deputy Figgis, at the interview which he had with me in the Ministry, what exactly my attitude was. The part of the Ministry was to render assistance in pointing out, so far as possible, what the procedure should be in regard to the promotion of any scheme of electrical development, and this assistance was given to anyone who approached us. There was, perhaps, a third party. People who are interested in hydro-electrical development, combined with peat, had the same facilities placed at their disposal. That is the attitude of the Ministry. That is all we have had to do with it. Deputy Figgis was told that at any time at all it was open to him to promote a private Bill, and for the Dáil to pass that Bill or reject it. The final approval of whatever scheme is put does not rest with the Ministry, does not rest with the Executive Council, but rests with the Oireachtas. I hope I have answered Deputy Johnson's points.

Mr. DARRELL FIGGIS: I went into a number of matters, and I am sorry that all of them have not been dealt with as I think that they might have been dealt with. I think it might have been accepted as a principle that if any person had been appointed as a consulting or advising engineer to a Government, and that person happened not to be a member of the institution in respect of that branch of engineering for which he was called upon to give advice, he should reasonably be required to get such membership before being continued in his position. I stated that I had failed to find anywhere any method by which the consulting engineer was rewarded for his services. I adhere to that. It is ob-

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 vious. I have yet to find where he was to be rewarded as he should be rewarded, as any person occupying his position should be rewarded. When I stated that he should be required to be a member of the institution, I did state that there were certain bye-laws and regulations which all members are required to fulfil, and I read all these bye-laws. It is perfectly clear that any person who is a member of the institution is required to fulfil these regulations, and may be charged before any such institution if he fails to adhere to the principles it lays down. The Assistant Minister states that I charged a failure in these regulations because I read out what the institution requires. I fail to see how that construction could be put upon my words. I have asked, however, and no answer has been provided, if contracts given, either in connection with this agreement with the railways, or any other large engineering tasks, were being given directly by this gentleman in connection with his duties; whether it was part of his duties, or whether it was not part of his duties, or whether all those contracts had to go to the Contracts Committee in the same way as all other contracts, and that the present Adviser had nothing whatever to do with the contracts in respect of which he advised. That information had not been provided. Deputy Johnson did not quite accurately interpret my words, which I chose very carefully, with regard to the schemes in the matter, where I frankly confessed I am an interested party. I would like to say my being an interested party in that connection does not in any way reduce the position revealed by that interest. What I did say was that we had offered to give all information that might be required, and we are willing to give that information because we conceive that a Government should justly require such information. But we also do say that a Government whose Consulting Engineer is the active promoter in the industrial sphere of a rival scheme does not hold that same justification for the demanding of the information which we so frankly tendered, and that is very obvious. In the interviews to which the Minister has referred he told us, with his ordinary, customary frankness, that it was the intention of the Government to observe as between all competitors in enterprise,

either this or any other, an attitude of absolute impartiality. We welcome that, and I am perfectly sure that it is the intention of the Department and of the Ministry to keep that attitude of absolute impartiality. But I suggest that if a consulting engineer employed by the Government is to enter that sphere, that impartiality automatically becomes impossible, and therefore I suggest that the Government should do something to ensure that these engineers should be full-time officials, with no other interests or activities. The Assistant Minister formulated a challenge. Most of the matters that I have referred to to-day have also been discussed between himself and myself, and I have forwarded him a letter to-day in which that information was put in writing. He is at liberty to make any use of that letter, or the one that preceded it, that he judges desirable. If the result of that correspondence should be that legal proceedings should be instituted, we shall be very glad indeed.

Mr. WHELEHAN: All contracts placed for reconstruction works on the railways, or for any engineering works, pass through the Ministry of Industry and Commerce and the Ministry of Finance, and the contracts are signed by the Minister for Industry and Commerce, and are placed by the Ministry of Industry and Commerce, and not by the Consulting Engineer. That is, I think, quite plain as to contracts. I made no charge against Deputy Darrell Figgis, but the Deputy has referred to letters which he sent me. If the Deputy writes a letter to me and marks the letter "Private and confidential" I am not going to take any action on such a letter.

Mr. DARRELL FIGGIS: May I interrupt just for a moment—

AN CEANN COMHAIRLE: Order.

Mr. WHELEHAN: He says now he has written a letter to me to-day. I could not have taken any action on a letter which I have not yet received, but if the letter be not marked, as his last letter to me was marked, though it dealt with the practices of the consulting engineer, if it be not also marked "Private and confidential," Deputy Figgis may absolutely rely that I shall take action in the matter. The Deputy at least is helpful when he sends a letter which I hope is not marked, as his last one, in red ink, "Private and confidential."

Mr. DARRELL FIGGIS: I may say that this was not a letter which was marked "Private and confidential." The Minister asked me if I would remove those so that he may be at liberty to take action. The letter I wrote to-day asked him to remove those words, and repeats the original communication.

Mr. WHELEHAN: Which request to the Deputy I hope he will take as evidence of my *bona fides* in the matter.

Mr. DARRELL FIGGIS: Those have never been questioned by me.

Mr. HUGHES: I think you might put an end to these shabby transactions, Sir.

Mr. WHELEHAN: I object to the word "shabby."

Mr. HUGHES: On the part of Deputy Darrell Figgis.

Amendment put and declared lost.

Mr. GOREY: Deputy Johnson raised a question yesterday with regard to the law of picketing. I do not know was it answered, but I do not think it was. This is a matter of vital importance to the country, where trade or industrial disputes exist, to know under what law we are living, and whether or not it is, as Deputy Johnson says, an adaptation of the English Trade Law, or what it is the rules of picketing provide. It would be well that this was definitely stated for the public benefit and the knowledge of those who are trying to know where peaceful picketing begins and intimidation ends.

AN CEANN COMHAIRLE: I did not hear this question by Deputy Johnson yesterday. I did not think that it was raised, but surely it was not permitted to ask the Minister for Industry and Commerce yesterday what the law of picketing was? Was it asked yesterday?

Mr. JOHNSON: No, sir, it was not raised by me.

Mr. GOREY: I have a distinct recollection that Deputy Johnson referred to it, and what they were allowed to do, under this Vote.

AN CEANN COMHAIRLE: Perhaps it was a question of Trade Boards, was it not?

Mr. JOHNSON: I raised the question of Trade Boards: I did not touch picket-

ing. I raised the question of factory inspectors, but that did not touch on picketing. I do not know what other Vote would allow me to mention the word "picketing," and I do not remember using the word.

Mr. GOREY: Did you refer to interfering with labour pickets?

AN CEANN COMHAIRLE: Does Deputy Gorey refer to the question raised by Deputy Johnson here yesterday under the head of Industrial Section, in which he spoke of Factory Inspectors and Trade Boards?

Mr. GOREY: No; I am referring to the Industry and Commerce Vote.

AN CEANN COMHAIRLE: Was I in the Chair myself?

Mr. GOREY: I cannot say.

AN CEANN COMHAIRLE: The only recollection I have is that Deputy Johnson raised the question of the policy of the Ministry with regard to Trade Boards and Factory Inspectors, and no question was raised with regard to pickets. In any case the Minister for Industry and Commerce cannot be asked to state what the law of picketing is when he is asking money for the administration of his Department.

Mr. DAVIN: I was present during the whole of that discussion yesterday, and I never heard any such question. I think there is nothing in the Estimates about the payment of pickets.

Mr. GOREY: I am not talking about the payment of pickets.

AN CEANN COMHAIRLE: It could not be raised.

Mr. GOREY: Then my hearing is very badly at fault.

Mr. CORISH: You hear too much; that is the fault.

Mr. JOHNSON: I have nothing to say to sub-heads B, C, or D, but in regard to E—Contribution towards expenses of Stall at "Daily Mirror" Fashion Fair—I invite the Minister to satisfy the Dáil, if he can, as to the value received from the expenditure of £150, or the value expected to be received from the expenditure out of this year's Vote in a contribution towards the cost of the "Daily Mirror's" advertising Fair. I invite

[Mr. Johnson.]

him also to tell us whether he expects any payment from the "Daily Mirror" as an advertising fee. There was a total amount of £1,000 agreed to, and the final half of the expenditure, chargeable to the Ministry of Industry and Commerce, is to be paid out of this Vote. I think it would interest the members of the Dáil and other people, particularly other newspaper people, to know what value may be expected from the Fair, and whether the "Daily Mirror" has assisted the finances of the State as a *quid pro quo* for the expenditure on this Fair.

Mr. WHELEHAN: With regard to the Vote of £150 towards the exhibit at the "Daily Mirror" Fashion Fair, many countries participated in the exhibition, and we are satisfied that the expenditure was fully justified by the results. Thirteen Irish firms exhibited there, and the report from those firms indicates that numerous enquiries were received from prospective customers during the Fair. Purchases were made and orders have been, and are being, booked since. We feel perfectly satisfied that the expenditure was to the benefit of industry and commerce generally within the country.

Mr. DAVIN: In regard to sub-head K, which relates to the Dublin-Cork steamer service, and payment to the British and Irish Steampacket Company in respect of the net loss on the steamer service between Dublin and Cork, could we have any statement from the Minister as to the circumstances under which that guarantee, or subsidy, of £1,000 was given to the British and Irish Steampacket Company in the first instance, or how the Ministry was committed to that amount?

Mr. WHELEHAN: I referred to that matter yesterday, but I think the Deputy had left the Dáil at the time. It was during the time the railway service between Dublin and Cork was dislocated, and we undertook to be responsible for any losses, to the extent of £1,000, that might be entailed in running the service between Dublin and Cork. As a matter of fact, none of that money will be required. The service very probably made more than the expenses of working it. The Estimate was made out before the sum could be removed from it.

Mr. DAVIN: Why I raised the ques-

tion was because the explanatory statement says "in respect of the net loss," and I thought the loss was incurred, and that the Ministry was responsible and had to pay that amount.

Mr. WHELEHAN: We merely guaranteed that in case of loss we would be responsible up to that amount.

Mr. WILSON: With regard to the contribution to the Unemployment Fund under Sub-head "L," I wish to know from the Minister if the £200,000 specified is the full extent of the State's contribution towards the Unemployment Fund, and is the £250,000 that we voted in a recent Bill to be added to this?

Mr. WHELEHAN: That £200,000 is a contribution from the State which goes with the contributions from the employers and employees. In addition, the Ministry of Finance, the Deputy will recollect, had a resolution passed here on the occasion of the passing of the Unemployment Bill for a further sum of £250,000, I think.

Mr. WILSON: That is not included?

Mr. WHELEHAN: I think the sum was £500,000 altogether.

The PRESIDENT: That is an advance in order to fund the particular fund in question. The fund was not able to meet the charges which came on it, and this was to finance it. It is a loan in order to finance the fund. The £200,000 in this case is the State contribution towards the funding of this particular service. It might be taken to be the estimated loss which falls on the State in order to provide this service.

Mr. WILSON: Is the £250,000 in excess of this?

The PRESIDENT: I think the Deputy misunderstands me; I think the amount is half a million. It is a separate Vote altogether. It is, I think, on a separate sheet, as a matter of fact. I will get the information later for the Deputy.

Mr. JOHNSON: I would like if the Minister would give us some information with regard to fees for licences under the Dye-stuffs Act. He expects to receive a sum of £100. I would like to have some statement from the Minister respecting the payment of these fees—whe-

ther there is any encouragement being given to firms in the Saorstát to accept these licences for the purchase and importation of dye-stuffs, and whether this £100 is merely an estimate or if it could be increased. I think I am right—perhaps the Minister will correct me if I am wrong—in saying that this has some relation to the prohibition of the importation of dye-stuffs unless under special licences. If it has, I think the Dáil would be interested to have a statement from the Minister as to whether any decision has been come to respecting the free importation of dye-stuffs from Germany, which have been prohibited under British legislation.

Mr. WHELEHAN: The scale of fees in force at present in connection with the Dye-stuffs Import Regulation Act range from a minimum of 2s. 6d. to a maximum of £5 per licence, the complete scale being: Goods licensed value under £100, 2s. 6d.; between £100 and £200, 10s.; between £200 and £500, £1; between £500 and £1,000, £2; £1,000 to £2,000, £3; £2,000 to £3,000, £4; £3,000 and upwards, £5. I might state, for the information of the Deputy and the Dáil, that a Bill for the repeal of this Dye-stuffs Import Regulation Act is at present before the Executive Council, and I might also state that we have had no difficulty at all in issuing licences to anybody who sought them for the import of dyes.

The PRESIDENT: I have the information now which Deputy Wilson asked for. It was published in a sheet which gave the Estimates of Receipts and Expenditure for the year ending 31st March, 1924. This particular item is No. 2 in Part (C)—capital raised for special purposes. “Under the Unemployment Insurance Act to provide advances for the Unemployment Fund. £536,700.”

Mr. WILSON: What I wanted to ascertain was what was the exact commitment of the State towards this Unemployment Fund.

The PRESIDENT: The exact commitment in respect of the Fund is this sum of £200,000. This sum of £536,700, which I have just mentioned, is a loan in order to finance the particular Fund and to enable it to discharge its obligations.

Vote 55 put and agreed to.

COMMITTEE ON FINANCE. LAND BILL, 1923—MONEY RESOLUTION.

The PRESIDENT: I beg to move the following resolution:—

That for carrying out the provisions of any Act of the present Session to amend the law relating to the occupation and ownership of land, it is expedient that the authority mentioned in the resolution on this subject adopted by the Committee on Finance on the 3rd inst., be extended so as to cover

(a) the payment out of moneys provided by the Oireachtas of a sum sufficient to pay to the Land Bond Fund in respect of Sinking Fund 5s. per cent. per annum on the nominal amount of all bonds issued for contribution to price and for the Costs Fund;

(b) the temporary advance out of the Central Fund of any sum that may be required for making good any deficiency in the Purchase Annuities Fund for payment from time to time of an amount equivalent to the purchase annuities accruing due in respect of advances made or to be made in pursuance of purchase agreements under the Purchase of Land (Ireland) Act, 1891, or any later Land Purchase Act other than the said Act of the present Session.

A further Money Resolution has become necessary in connection with Amendments Nos. 5 and 8, which appear on the printed list which has been circulated. Paragraph (a) covers the charge on Public Funds that would be involved by the adoption of Amendment No. 5. The Bill, as originally drawn, omitted to enact precisely how the money would be provided which was necessary for the Sinking Fund on bonds issued for contribution to the price and for the Costs Fund.

Paragraph (b) in the Resolution has to be read in connection with Amendment No. 8. Since the Bill was drafted, further consideration has been given to the procedure which ought to be followed in dealing with purchase annuities arising from the Land Acts. The responsibility for the collection of these rests with the Government, but the amount of the annuities, whether collected or not, requires to be paid over to the British Government for the purpose of meeting the interest and the Sinking Fund on the various Land Stocks. On further consideration,

[The President.]
we came to the conclusion that the provisions of the Bill did not provide an adequate working machinery for the purpose and the suggested amendment will meet that. We provide for it by this Resolution.

Mr. JOHNSON: Have we passed from the Estimate for the Ministry of Industry and Commerce?

AN CEANN COMHAIRLE: Yes.

Mr. JOHNSON: I thought you were going on to Transport and the Marine Service.

AN CEANN COMHAIRLE: The arrangement made was that we would finish the Estimate for the Ministry of Industry and Commerce. That was to take precedence of the Land Bill, but it was not proposed to allow the printed agenda to be interfered with for other Estimates. The Estimates that Deputy Johnson has mentioned will be taken first when the other Estimates are before us. It was agreed yesterday to take this Money Resolution to-day. It was circulated yesterday evening.

Motion put and agreed to.

THE DAIL RESUMES.

MONEY RESOLUTION REPORTED.

The PRESIDENT: I move that the Dáil agree with the Committee in this Money Resolution in connection with the Land Bill.

Agreed.

LAND BILL, 1923.—REPORT.

AN CEANN COMHAIRLE: I think it will be necessary to get a motion to recommit. It was intended to go into Committee?

Mr. HOGAN: Yes; I beg to move, in accordance with the arrangement that was suggested on the Committee Stage, "That the Land Bill be now recommitted in respect of the Sections proposed to be amended."

THE DAIL IN COMMITTEE.

Mr. DUGGAN: I beg to move Amendment 1 as follows:

"In Section 1 (4), page 3, lines 33 and 34, to delete the words "Sinking Fund payments in respect thereof" and to insert in lieu thereof the words "sums required for redemp-

tion of Land Bonds in accordance with the foregoing provisions"; and in line 35, after the word "Fund" to insert the words "established under this Act."

This is merely verbal and consequential on the amendment introduced on the Committee Stage.

Mr. HOGAN: I am accepting this amendment. It was agreed on the Committee Stage, and Deputy FitzGibbon suggested that these words should be inserted. The Dáil agreed, and I gave an undertaking that on recommitment these words would be inserted.

Amendment put and agreed to.

Question: "That Section 1, as amended, stand part of the Bill," put, and agreed to.

SECTION 9.

Mr. DUGGAN: I beg to move:—

"To add at the end of Section 9, page 5, a Sub-section as follows:—

The Purchase Annuity or any part thereof at any time outstanding may be redeemed in whole or in part by the person liable to pay that annuity by payment to the Land Commission in cash of such amount as shall be ascertained in accordance with Rules made by the Minister for Finance."

This amendment gives the purchasing tenant the option of redeeming his annuity which he was entitled to do under the existing Acts.

Mr. HOGAN: This amendment is also accepted. It is probable that without this amendment the provisions in regard to redemption in the previous Act would apply, but to make assurance doubly sure a sub-section has been added, providing for redemption of an annuity under the Act in the event of any tenant wishing to redeem before it is paid off in the ordinary way.

Amendment put and agreed to.

Question: "That Section 9, as amended, stand part of the Bill," put, and agreed to.

SECTION 10.

Mr. DUGGAN: I beg to move: "In Section 10, line 30, page 5, to delete the word "dividend" and to insert in lieu thereof the word "interest." This is merely verbal.

Mr. HOGAN: This amendment is really to meet Deputy Johnson's suggestion that "interest" looks nicer than "dividends." Personally, I do not think that it makes any difference.

Mr. JOHNSON: If the Minister's aesthetic views are considered in this matter I do not wish the Dáil to accept the amendment if that is the only question, but it is a question of verbal accuracy.

Amendment put and agreed to.

Question: "That Section 10, as amended, stand part of the Bill," put, and agreed to.

SECTION 11.

Mr. DUGGAN: I beg to move "In Section 11 (2), page 5, line 56, after the word "thereof" to insert the words "together with the addition (if any) in respect of compounded arrears of rent added to the purchase money." This is to cover cases in which the arrears instead of being paid in cash are added to the purchase money.

Mr. HOGAN: I am accepting this amendment. There is an amendment at a later stage suggesting that a half year's rent be added to the purchase money which I propose to accept. I do not know if the Dáil will accept it. Possibly the Farmers' Party will not.

Mr. GOREY: In anticipation of the Dáil accepting that amendment, it does not in any way prejudice the question on the following amendment. It merely provides an addition, if any, in respect of the arrears to be added to the purchase money. It does not specify compounded arrears. That question is open.

Amendment put and agreed to.

Mr. DUGGAN: I beg to move:—

"To add a new paragraph (c) after Section 11 (2) (b), page 6, as follows:—

(c) On the nominal amount of all bonds issued for contribution to price and for the Costs Fund from the date of the issue of such bonds until the same shall be certified by the Minister for Finance to have been repaid."

Mr. HOGAN: That amendment is also accepted. It speaks for itself.

Amendment put and agreed to.

Mr. DUGGAN: I beg to move the following amendment:—

"To insert a new Sub-section after 11 (2), page 6, line 7, as follows:—

(3) The Land Commission shall pay to the Land Bond Fund in respect of Sinking Fund five shillings per cent. per annum.

(a) On the nominal amount of all bonds issued for the price of sporting rights and fisheries purchased by them under this Act from the date of the issue of such bonds until the same shall be certified by the Minister for Finance to have been repaid.

(b) On the amount of advances made by them to proprietors of parcels of untenanted land in non-congested districts counties and of parcels purchased under the Land Purchase Acts for the redemption of Fee-farm or other rents, superior interests and charges from the date on which land bonds shall be issued in respect of such advantages until the advances have been repaid.

This amendment provides the machinery for the necessary financial adjustments between the Land Commission and the Ministry of Finance.

Mr. HOGAN: That amendment is also accepted. It is a necessary financial amendment in order to perfect the machinery.

Mr. GOREY: There are cases where fisheries have been let to tenants by the landlords as part of the farm. Will the tenants be entitled to buy these fishing rights, inasmuch as they have already rented them?

Mr. HOGAN: No, they will not, if it is merely a letting from year to year. No one, except a tenant in fee-simple, has fishing rights. If a man is a farmer and a fisherman as well it is a most unlikely contingency that in the first instance the usual procedure would be adopted in the case of fishing rights bought from a landlord. It would be for the Land Commission to say whom the rights would be let to. If a farmer is a genuine fisherman the Land Commission would treat him as such and let him the fishery as the landlord did. The Deputy will have to remember that there are no such things as fishing rights appertaining to land.

Mr. GOREY: I am talking of a landlord letting to a tenant. Will the State step in and prevent the tenant from buying? There are several cases to my knowledge in which fisheries have been rented as part of the farm. Am I to understand that these fishing rights will be acquired by the Land Commission? What will be the result? Will the rent be reduced accordingly or will the tenant be deprived of these rights altogether, or can the tenant step in and buy?

Mr. HOGAN: We want to be clear about what the Deputy means. He does not suggest, does he, that any judicial or present tenant has any tenure of fisheries similar to that which he has of his holding? I can imagine a present tenant or a judicial tenant getting yearly lettings of a fishery appertaining to his land. The present tenant would have no tenure. The landlord would take the rights up at the end of the year and, as far as I know, there is no case in existence where the present tenant has a certain amount of rent appropriated to fishery rights. There is no holding that I know of or that exists where the rent of a holding is, say £50, and where the landlord of a present tenancy, or where the Land Commission has fixed £10 of that in respect to fisheries. The rent of a present or judicial tenancy is purely in respect of land, and the tenure of fisheries is a separate thing. The landlord who owns the fisheries lets them to anyone, not necessarily to the tenant, but often to fishermen and outsiders, such as rich men who like to come down to fish. He may, in an odd case, rent them to a tenant, not by reason of owning the land but on conditions on which any outsider would take them.

They will be vested in the Land Commission and paid for separately by them, and it will be for the Land Commission to say who is best entitled to those fishing rights afterwards. Take the first and usual case where fishing rights are appurtenant to land on the Shannon, or on any other big river and are being let to fishermen, and not to men who own the adjoining river at that spot. In that case the Land Commission will let them to men who are making their living out of them. Take the case Deputy Gorey suggested where the tenant took them as a separate letting. It will be open to the Land Commission to consider his

title as against any other man in the neighbourhood making his living out of them. In that case the tenant will have no grievance because he never had any tenure.

Mr. GOREY: There are other tenancies besides judicial ones that will be covered with this Bill.

Mr. HOGAN: I said judicial and present.

Mr. GOREY: I know. There are small farms where a man is renting fishing rights as part and parcel of the holding. Will the Minister accept proof of that if cases be cited?

Mr. HOGAN: Certainly.

Mr. GOREY: Under those conditions, then, he would be entitled to buy the fishing rights?

Mr. HOGAN: No. I do not believe there are such cases, but I am open to correction.

Mr. GOREY: Most people are open to correction, even Ministers.

Mr. HOGAN: I do not think it is likely that any tenant would have fishing rights and would pay a fee for them with the holding at an inclusive rent. Does the Deputy suggest that?

Mr. GOREY: I understand there are such cases.

Mr. HOGAN: That the rent fixed covers both the fishing rights and the rent of his holding?

Mr. GOREY: Yes.

Mr. HOGAN: I never heard of a case of that sort. It would be most unusual. If such a tenant were a present tenant and went into Court the only rent that could be fixed would be purely and simply the bare rent of his holding. If the Deputy takes the case he has in mind and traces the matter to its origin he will find that the inclusive rent now had a distant origin. Part was rent of the land and part of fishing rights, and it is a matter of convenience to pay all the rent on one receipt. I am perfectly certain no one has the same tenure of fishing rights, as he has of a present tenancy. These fishing rights would be paid for separately. If you have a case where a very small farmer is making his living

out of fishing it will be open to the Land Commission to let the fishing rights to him when he makes application for it.

Mr. DINNEEN: I know of a case in the River Blackwater where the tenant got the right of fishing along that river.

Mr. HOGAN: We are at cross purposes. I am sure Deputies know cases where tenants have the right to fishing. My point is if they have the right to fishing, they have it as a separate taking. They might have a holding adjoining the river and might also have got from the landlord, fishing rights, but they have not it in connection with the holding; it is a different tenure. There is no difference between the case of a man having fishing rights and having his holding near by, and the case where a man has fishing rights on the river, and lives 20 miles away. Does the Deputy suggest that the fishing rights are part of his holding, and that he has the same tenure as he has of his holding—namely, that it cannot be taken from him?

Mr. DINNEEN: Yes.

Mr. GOREY: It satisfies me.

Mr. HOGAN: I do not think that is so.

Mr. O'CALLAGHAN: Have we the Minister's word that he will consider the case of genuine fishermen when giving out the fishing rights—one man one job? You cannot have a farm and fishing rights at the same time.

Mr. GOREY: He cannot be a Deputy and on the railway at the same time.

Amendment put and agreed to.

Mr. DUGGAN: I move, in Section 11 (6), line 19, page 6, to delete the word "dividends," and to insert in lieu thereof the words "interest and sinking fund."

Amendment put and agreed to.

Question: "That Section 11, as amended, stand part of the Bill," put and agreed to.

SECTION 12.

Mr. DUGGAN: I move Amendment 8: To delete Section 12 (2), page 6, and to insert in lieu thereof the following Sub-sections:—

(2) Notwithstanding anything to the contrary contained in the Provisional Government Transfer of Functions Or-

der, 1922, all sums collected after the 31st day of March, 1923, in respect of Purchase Annuities in repayment of advances made or to be made in Saorstát Éireann in pursuance of Purchase Agreements under the Purchase of Land (Ireland) Act, 1891, or any later Land Purchase Act other than this Act shall so far as not already paid into the Exchequer be paid into a Fund entitled "The Purchase Annuities Fund" to be established under the control of the Minister for Finance, and there shall from time to time be paid thereout by the Minister for Finance to the appropriate authority for the credit of the Land Purchase Account or the Irish Land Purchase Fund as the case may be an amount equivalent to the purchase annuities accruing due in respect of the aforesaid advances.

For the purposes of this Section purchase annuities shall be deemed to include interest payable in respect of an advance as aforesaid.

(3) The provisions heretofore applicable for making good any deficiency of the Land Purchase Account or of the Irish Land Purchase Fund shall apply as from the 1st day of April, 1923, in the case of the Purchase Annuities Fund in accordance with regulations to be made by the Minister for Finance.

(4) The Minister for Finance shall have power to make any adjustments rendered necessary by this Section in relation to the Exchequer and the Purchase Annuities Fund and the Guarantee Fund in the case of transactions during the period from the 1st day of April, 1923, to the date of the passing of this Act.

Mr. HOGAN: This amendment is necessary. It is providing merely a new name for the funds so as not to confuse the funds into which the annuities under the old Acts are paid with the Land Purchase Fund.

Amendment put and agreed to.

Question: "That Section 12, as amended, stand part of the Bill," put and agreed to.

NEW SECTION.

Mr. DUGGAN: I move Amendment 9: To insert before Section 15, page 6, a new Section in Part I. as follows:—

(1) The provisions of Sub-sections (1), (2), and (3) of Section 39 of the Irish Land Act, 1903, providing for the pay-

[Mr. Duggan.]

ment to the public trustee of the sum of £5,000 per annum for the account of Trinity College, Dublin, and for the application of the said moneys shall cease to have effect and in lieu thereof the following provisions shall apply:—

(2) There shall be paid to the College out of moneys to be provided by the Oireachtas the sum of £3,000 per annum.

(3) The investments representing accumulations of the moneys so paid to the public trustee which were not required to make good loss of income to the College and accrued interest thereon shall be transferred to the Minister for Finance and such officer of the College as shall be nominated for the purpose by the Governing Body of the College.

(4) The dividends and income arising from the investments so transferred shall be applied by the College in such manner and for such purposes as to the College may seem proper.

(5) The investments so transferred may be varied from time to time with the consent and approval of the Minister for Finance.

Mr. HOGAN: This amendment was already debated. Trinity College was entitled to £5,000 a year under the Irish Land Act as compensation for any losses which it might sustain by reason of the redemption of head rents. It would sustain further losses under this Act, because head rents will be redeemed, and the arrangement as set out in the amendment is perfectly equitable. It provides that the sum of £3,000 a year should be paid to Trinity as well as the interest on the money which they are entitled to under the old Act.

Amendment put and agreed to.

Question: "That the new section be added to the Bill," put and agreed to.

Mr. DUGGAN: I beg to move Amendment 10, to insert before Section 16, a new Section as follows:—

"All moneys standing to the credit of the Ireland Development Grant Account at the time of the passing of this Act, shall be paid into the Exchequer."

Mr. HOGAN: This amendment is also accepted. The Ireland Development Grant is not to be voted in future. Any money required for the service will be voted directly by the Dáil, including any money required by the Guarantee Fund.

There is no occasion now to earmark money for any special provision like this, whereby a special amount of money would have to be set aside for purposes of this sort. Any money required will be voted by the Dáil, and will be subject to the criticism of the Dáil, and any changes that take place the Dáil will be able to take into account, and make the necessary adjustments. I think the Dáil will agree that that is sound in the new circumstances that exist.

Amendment agreed to, and added to the Bill.

SECTION 17 (NEW).

Mr. GOREY: I beg to move Amendment 11. To insert before Section 17 a new Section as follows:—

"For the purposes of this Part of the Act and of the Schedules attached to the Act, rent, whether on a judicial holding or otherwise, shall be understood to mean any abated rent accepted by a landlord for a period of at least 5 years previous to the first gale day of the year 1921, provided that such abatement was not given by way of payment for services."

Mr. HOGAN: I suggest to the Deputy and to the Dáil that as this amendment deals with the question of what is rent, whether abated rent, or actual original rent, and as the same question arises on arrears, and in the Schedules, and as there are three or four amendments on arrears and on the Schedules to which exactly the same consideration applies, I suggest that his amendment ought to be adjourned until we come to the others when we might take all together.

AN CEANN COMHAIRLE: That is, to deal with the matter on the Schedule; that would seem to me to be a proper thing to do.

Mr. GOREY: Would it not be better to have this question of rent defined now?

Mr. HOGAN: We will have the same thing on the Schedule.

Mr. JOHNSON: If we were to postpone this amendment until the Schedule, would it then be possible, at that stage, to come back and introduce this amendment here in this particular clause. Supposing the amendment were agreed to on the Schedule could we then come back and make this amendment here?

Mr. HOGAN: With the consent of the Dáil, I take it we could. Exactly the same consideration applies to the Schedule as arises on the Deputy's amendment here, and also in regard to arrears.

Mr. GOREY: They are all rent.

Mr. HOGAN: Yes, and in connection with arrears it raises the question what exactly is rent, and the same with regard to prices.

Mr. GOREY: I think if this amendment were discussed it would define the whole question of rent, and govern the whole of the other amendments; because there are rents other than judicial and non-judicial rents. There are agreed rents—rents where reductions were permanently given, not extorted or forced, previous to 1921, but reductions mutually agreed, and these have always been the basis of future purchasing. I think my motion comes in at the right place, and will decide the other amendments.

Mr. HOGAN: I agree this will decide the whole question, but you have amendments Nos. 51, 52 and 53 which raise, not exactly the same point, but points within these points dealt with here, and my suggestion was that instead of taking Deputy Gorey's amendment now we should take it at No. 50, and deal with 51, 52 and 53, which all raise somewhat the same point. It would be impossible to deal with one without the other.

Mr. JOHNSON: It occurs to me that the Minister is pre-supposing the other amendments will be defeated. The question arises whether it would be in order to go back to Clause 17 for the purpose of introducing this new amendment after we had passed on to the Schedules. The object of the Minister would be quite well attained if, on the discussion of amendment 11 he dealt with the arguments affecting the other amendments, and then they could all be discussed later.

Mr. HOGAN: That will suit me. The Deputy is wrong in suggesting that I am pre-supposing that they will be defeated. I am quite willing to have them all gone into now.

AN CEANN COMHAIRLE: If this were merely a definition it could come on later, but I see now that it is a great deal more than a definition.

Mr. GOREY: It is a definition of the word "rent."

AN CEANN COMHAIRLE: Yes, but it would come under a separate section rather than in a definite section, a section which gives a number of definitions, and for this reason it requires a good deal of discussion, and I do not think it can be inserted in the Schedule as it stands, and, therefore, it would be necessary to go back. If we go on to the Schedule, we could not go back to Clause 17.

Mr. HOGAN: If that is so, that finishes it.

AN CEANN COMHAIRLE: In so far as the arguments are relevant to amendments 51, 52 and 53 they can be used now.

Mr. GOREY: In moving my amendment now I only propose to deal with this particular one and I leave the others to their merits, because they are all minor matters or side-issues of the same question. I ask the Minister to accept this new subsection because where it has been the custom between landlords and tenants for both mutually to agree to an abated rent, or a first term, then that rent is held to be the second term rent, or if the first and second term rents are fixed and afterwards a mutual arrangement is made and an abated rent is agreed by both parties, then that stands as a third term rent. So, in the case of non-judicial tenants where the owner thought that the tenant would not go into court and where the landlord and tenant mutually agreed to a reduced rent, that reduced rent had to be the basis of purchase, and also with regard to arrears, purchase, and abatement in lieu of rent. This is quite a reasonable and sensible business suggestion. On any properties that I know of, and I know several, especially the estate on which I live, the abated rent was the basis of purchase; the landlord never questioned it; it was a non-judicial estate where the tenants received substantial reductions on the condition that they did not go into court as a supplement to getting a fair rent fixed. That abated rent was the basis of purchase, and in every case I know it has been the basis of purchase, and the landlords having agreed to it through the abated rent, are not going back to the original rent as the basis of purchase or arrears or in lieu of rent.

An Leas-Cheann Comhairle took the Chair at this stage.

Mr. HOGAN: We will have to deal with the amendment as it stands, and to deal with it in connection with the clause to which it has reference. At present we are dealing with arrears and payments in lieu of rent, and we will come to the question of prices afterwards. The Deputy's intention is to ensure that wherever there was a genuine agreement for an abated rent, that that shall be the rent, but his intention is defeated by his own amendment. His amendment reads: "For the purposes of this Part of the Act and of the Schedules attached to the Act, rent, whether on a judicial holding or otherwise, shall be understood to mean any abated rent accepted by a landlord for a period of at least 5 years previous to the first gale day of the year 1921, provided that such abatement was not given by way of payment for services."

Now, apart from the question of payment for services, I suppose any number of specific reasons could be given as to why a landlord reduced a rent and gave an abatement. The landlord gave an abatement, as the Deputy pointed out, for services rendered. A tenant's holding perhaps may have adjoined a piece of untenanted land, and a landlord may have come to the owner and said, "If you drive in my cows every morning, I will allow you a shilling in the £ off your rent." That, I hold, is not a genuine abatement of rent. Then, there might be a case where you had a reasonable landlord who had been on good terms with a tenant. Let us suppose that the tenant died, and that the landlord went to his widow and said, "I will allow you a 50 per cent. reduction on your arrears if you try and pull up a bit." That, I hold, would not be a genuine abatement either.

In any case it would be quite impossible to cover, by any general rule, the reasons or circumstances under which abatement of rents are given, and it will be quite impossible to provide directions for the Land Commission which would enable them, without having recourse to a judge, to say, in every case, whether abated rent was the real rent or not. Deputy Gorey's amendment states that an abated rent "shall be understood to mean an abated rent accepted by the landlord for a period of at least five years previous to the first gale day of the year

1921, provided that such abatement was not given by way of payment for services." The five years to the first gale day referred to in the amendment would cover the years 1916 to 1921. There were very few abatements in these years; in fact I think abatements were taken off during that period. On the other hand, a man might have got an abatement for 10 years, and yet his rent would not be a real rent; there might be a case of a man who only got an abatement for one year, and in that case the abated rent might be a real rent. It all depends, I say, on circumstances, and whether there was an agreement between the landlord and the tenant for a new rent, an agreement based on the value of his holding for rent purposes. Deputy Gorey's amendment would rule out hundreds of genuine cases, and would let in hundreds of bogus cases. Amendment No. 18 on the Order Paper, in the name of Deputy Hennessy, covers the point much better than Deputy Gorey's amendment, and covers it in the only way in which it can be covered. I am accepting Deputy Hennessy's amendment. Before I read the amendment, perhaps I ought to read the Section. The matter is dealt with in Section 20, Sub-section (3): "Any question arising between a tenant and a landlord regarding the accuracy of any particulars furnished pursuant to this Section shall be determined by the Land Commission in accordance with rules made by them, save that in the case of a holding subject to a judicial rent the record filed in the Land Commission shall be final and conclusive in all matters appearing thereon, except that where the judicial rent was fixed before the 1st day of April, 1899, the adjustment provided for by Section 54 of the Local Government Act, 1898, shall be taken into account in determining the amount of rent."

Deputy Hennessy's amendment, dealing with the matter, reads:—"In Section 20 (3), page 8, line 58, after the word 'rent' to insert the words 'and save that any question as to whether an agreement for an abated rent was in fact an agreement for a new rent or any question as to the amount from which the deduction of 25 per cent. is to be made in ascertaining compounded arrears of rent and payment in lieu of rent shall be determined by the Judicial Commissioner, whose decision shall be final.'"

That enables the High Court Judge to

take the circumstances into account, and to see whether in any particular case the abatement was given by reason of services rendered, or was given gratuitously by the landlord, or as an admission of the fact that the old rent was too high, and that the new rent should be fixed. This is the only possible amendment that would cover all the cases, and that would do justice in all the cases. It would be quite impossible to provide a form of words in an Act of Parliament that would cover all cases, some of which may be extremely complicated and varied. There is no way of doing it except to leave it to a judge to say whether the rent is an abated rent or a real rent. I am accepting Deputy Hennessy's amendment. I could not accept Deputy Gorey's amendment, because it does not carry out the intentions which both of us have in mind, that where there is a genuine agreement for a new rent, that that shall be the new rent.

Mr. GOREY: This is not a question of a genuine agreement. There are cases where you might have genuine agreements without at the same time having them in writing. You could, for instance, have an agreement that had become the practice between the landlord and the tenant for years, and although there was no written document to show that such an agreement was in operation, the agreement would none the less be a genuine agreement. Deputy Hennessy's agreement does not meet my point, because, in my opinion, it is a bit too technical.

Mr. FITZGIBBON: Deputy Gorey's amendment reads that the abatement granted in each of the five years preceding the year 1921, is to be taken as the abated rent, and to be the rent of the holding. In one year the abatement might be twenty per cent., in another year fifteen per cent., and, perhaps, in another year twenty-five per cent., but suppose the landlord had, in fact, accepted the abated rent, but that the amount of the abatement had not been the same in all of these five years, the tenant, under Deputy Gorey's amendment, would not be entitled to get any abatement in the rent at all, because there would have been no abatement that would have lasted over the entire period of five years. Under Deputy Hennessy's

amendment it would at once become open to the Land Commission to fix what was a fair rent, and the proper abatement to be granted in such a case as that. If Deputy Gorey's amendment became the law of the land, I am afraid the Court that would have to decide a case would say that there had been no abated rent for five years, and, therefore, would refer to the original rent and say "We cannot deal with it in the equitable manner in which we would be entitled to do if Deputy Hennessy's amendment had been accepted." Therefore, to meet Deputy Gorey's view, it seems to me that his amendment would require some alteration in the wording if it is to carry out the intentions he has in mind.

Mr. GOREY: I make the Deputy a present of the particular case he has made. I never heard of such a case in my life, and I do not think that one is likely to arise in the future when this question of the fixing of rents will take place.

Mr. FITZGIBBON: The point I made was this, that if an abatement of 25 per cent. were granted in the first four years, and that in the fifth year an abatement of only 20 per cent. was granted, it seems to me that under this amendment the tenant would not be entitled to get any abatement at all.

Mr. HOGAN: The real trouble is that Deputy Gorey is under the impression that there is some catch in my amendment.

Mr. GOREY: I am always very suspicious.

Mr. HOGAN: The real trouble is that Deputy Gorey thinks no one but himself has the interest of the tenants at heart. I am not accepting this amendment, because it would be unfair to the tenants. I am not accustomed to exhibit my particular love for them in the Dáil. Anyone who thinks about this would see that the five years from 1916 to 1921 would be obviously unfair to choose, as practically all the abatements were taken off. There are hundreds of cases where you would have a genuine agreement, and the Deputy should not jump to the conclusion that the agreement must be in writing. These agreements are never in writing. I venture to say there is not one single agreement in writing in Ireland. The new rent

[Mr. Hogan.]

agreement is on the face of the receipt. That is the only evidence of an agreement that you have. I should not say evidence of an agreement, as it is not the only evidence, but it is the only writing in connection with this question that you have got. There is never an agreement in writing in these cases. The only writing in connection with the abatement would be on the face of the receipt. So it is not a question of an agreement in writing. As I said, there are a great many reasons for abatement peculiar to every landlord and every tenant. There are a very large number of tenants who have got genuine abatements by reason of the fact that the landlords admitted that the rent was too high, not by reason of the fact that they had performed some service for the landlord, and that that service was continuing, or by reason of the fact that a man had met with some misfortune.

Mr. GOREY: I did not refer to these at all.

Mr. HOGAN: This would cover it. There might happen to be a decent landlord who would say that he would let the tenant off forty or fifty per cent. of the rent for the next five years. It would be most unfair in a case of a decent landlord with a good tenant who had met with some misfortune, and whom the landlord let off with fifty per cent. of the rent for the next three or four or five years, that we should come in and purchase on the basis of the fifty per cent. It would be most unfair and unjust. It would be punishing decency and good treatment. There are hundreds of cases where an abatement for five years went on for a number of years, and it was not a genuine abatement. There are hundreds of cases where an abatement could have only been given for the first time last year, where it was a genuine abatement, and where the tenant would be entitled to have the abated rent regarded as the new rent. The Deputy in putting down these five years, and confining it to any abated rent within that time—except the abatement is in consideration of services—would do gross injustice between tenant and tenant and would rule out a very large number of tenants who would be entitled to come in. I am refusing this amendment, because it would be most unjust to the tenant, and, incidentally, to the particular

decent landlord who gave an abatement in the sort of cases I have mentioned.

Mr. GOREY: I am not impressed by the Minister's arguments. The language of Amendment 18 is very precise. It says: "Any question as to whether an agreement for an abated rent, was in fact an agreement for a new rent." In the absence of an agreement for a new rent, how does this apply?"

Mr. HOGAN: The Judicial Commissioner is to say.

Mr. GOREY: Then the Judicial Commissioner is to have a permanent job? He could do it in one stroke under the amendment that I suggest. Now, you are to have a Commissioner doing the work all over the country for years. I do not see the point of the amendment at all.

Mr. HOGAN: If I could find out what is in the Deputy's mind, I would answer it. He has stood up now and made two interruptions which convey nothing to me. What point is he making in regard to the words?

Mr. GOREY: I did not stand up to make an interruption. I stood up when the Minister sat down. My opinion is that he is just as fertile in interruptions as I am.

Mr. HOGAN: Not quite; almost.

Mr. GOREY: We will shake hands over it.

Mr. HOGAN: Oh, no. I want to know what objection he has to "any question as to whether an agreement for an abated rent was in fact an agreement for a new rent?" What is wrong with that?

Mr. GOREY: I purposely used, in this amendment here, the words, "was not given by way of payment for services," in order to exclude anything like abatement for services rendered. I was not taking into consideration the very exceptional case which the Minister refers to, where a man dies and the landlord is very compassionate in the case of the widow. Such a thing may have happened, but I have not heard of it—not since before 1921. It is really an exception if it has happened. I did not refer to any of these cases that were not genuine reductions. I meant that a genuine case of an abated rent should stand as the ordinary rent.

Mr. HOGAN: The real point is that the Deputy's own amendment does not carry out that. He has not attempted to meet Deputy FitzGibbon's point. There are a great many cases in which tenants have only an abatement for two years, which would be entitled to be regarded as a new rent.

Mr. GOREY: Considering the Minister's majority, I withdraw the amendment.

Amendment, by leave, withdrawn.

Mr. GOREY: For the same reason, I suppose, I can withdraw the next amendment also?

Mr. HOGAN: You can.

Mr. GOREY: But I am not withdrawing it.

AN LEAS-CHEANN COMHAIRLE:

Before the Deputy moves the amendment, I must say that I can only accept part of the amendment—namely, "To delete the figures '25,' and to substitute therefor the figures '35.' " The remaining portion must come out, because we cannot make consequential changes in Sections we are not dealing with.

Mr. GOREY: I beg to move:—In Section 17 (2), page 7, line 19:— "To delete the figures '25,' and to substitute therefor the figures '35.' " This amendment deals with the question of arrears. An amendment has been put down on the part of the Government later on, adding one-half year's rent to the purchase money in cases where three years' arrears are due. It is only in exceptional cases that there is three years' rent due. Of the 70,000 unpurchased tenants there might not be 2,000 in that position. The men who owe two and a half years', two years', one and a half years', and one year's rent have paid their rents up to these periods. In my opinion, and in the opinion of the tenants all over the country, the provisions of the Bill in this respect are grossly unjust and unfair. The man who owes three years' rent ought not to be put in a different position from the men who owe two and a half or one year's rent. There is a bigger reason. Certain of the representatives of the unpurchased tenants—myself principally—gave an assurance to the unpurchased tenants, when this Bill was being discussed, that the terms would be raised either by giving a direct cash reduc-

tion or by adding so much to the purchase money as would have the same effect as raising it from twenty-five to thirty-five. When I gave that assurance to the unpurchased tenants, I had very definite reasons for doing so.

Mr. HOGAN: What were they?

Mr. GOREY: I was not going to refer to them, but if the Minister asks me I will tell him. The Minister's distinct and emphatic assurance was that this 25 per cent. was not his last word at all; that he would be forced up on amendments from our party to 35 per cent., either as a direct cash reduction, or by adding so much to the purchase money, that it would have the same effect. Perhaps the Leas Cheann Comhairle may have some personal knowledge of this question.

Mr. HOGAN: On a point of order, if the Deputy has any further knowledge on this question he should speak out openly now in the Dáil, and not be making suggestions.

Mr. GOREY: Time enough when it is needed.

Mr. HOGAN: I prefer it now. The Deputy has made a statement about me which is, shall I say, absolutely inaccurate. I prefer when he is making statements that he would not give any hints but state what he has to state openly.

Mr. GOREY: I have made a certain definite statement. I went to the Unpurchased Tenants' Convention, and on the strength of an assurance, I assured the Convention that these terms would be carried out. On the strength of that assurance the Bill was accepted by the Unpurchased Tenants. They now find themselves, and I find myself, in the position that what I believed to be a definite assurance, and what the tenants believed from me, has not been carried out. That is one reason, but the main reason, apart altogether from this promise, is that of justice and equity. It is no reason because a man has paid two years' rent during the last three years, and only owes one year's rent, that he should be deprived of this benefit. It is also no reason because a man owes 2½ years' rent that he should not get this benefit, while a man who owes three years should have a half a year added to the purchase money. People who owe

[Mr. Gorey.]

three years' rent and who get a half-year's rent added to the purchase money are thanking the Minister for little or nothing. It is really only throwing dust in their eyes in an attempt to seem generous when he is not generous at all. The Minister has denied that he made this statement or gave me to understand as much. He says that it is inaccurate. I say, distinctly, that the Minister's statement is inaccurate.

Mr. DOYLE: Apart from this promise or otherwise, of which I know nothing, as I got no promise, the Bill on these terms I say is unjust to the tenants. Considering the present state of agriculture, the Minister should do all he could in the case of these arrears. Where the amount of rent owing is one year or two years, such tenants should receive some benefit under the circumstances. As to the inaccuracy or accuracy of the statement that has been made, I know nothing. I heard it from no one else. It may be true or it may be false, but as far as the majority of our party are concerned, we know nothing about it. Apart from that I believe myself that the Minister is entitled to give 35 per cent. on the present arrears, people do not find so much fault with any other part of the Bill as with this. They consider such tenants should be dealt with more liberally under this Section, and that at least 35 per cent. of the arrears should be allowed.

Mr. LYONS: I support this amendment and would ask the Minister to change the figures from 25 per cent. to 35 per cent. If the Minister agrees he will be doing a generous turn to the people on behalf of whom the change is urged. Since the last Stage of the Bill, in parts of the country that I visited, and where the tenants were not able to pay rent for the past three years, they seem to be completely up against the Minister of Agriculture on this point. Probably if the Minister accepted the amendment it may do a little justice to such tenants, over and above the justice that the Bill does to the landlords. Take the case of a small farmer who is in possession of an uneconomic holding, the landlord of which requires a really excessive rent. At a time when everybody else in the Free State was fighting for freedom, such tenants adopted the

only means they could of fighting the landlords, by ceasing to pay the rent that was demanded. Where some of these people are not able to pay, the Minister could advise the Minister for Defence to send down military who will probably seize the stock that may be grazing on the holding. That was done recently near Mullingar where three cattle belonging to Mr. Flanagan of Tyrellspass were taken away and sold for £2 a head. I take it that the object was simply to recover the amount that was owing, but as a result this man lost all his stock. Every Deputy is entitled to his opinion on these matters, but it is nearly time that something was done for tenants who are asked to pay excessive rent. As Deputy Gorey has pointed out, the acceptance of this amendment will mean a little justice to the tenants, and I can assure the Minister for Agriculture that the people will be satisfied with it until such time as they will be able to compel the Dáil to give them perfect justice.

Mr. WILSON: The case for this reduction is that there will be a reduction in the rent of 7/- in the £. Having regard to the bad times agriculture has had for the last two years, and to the tremendous disturbance that occurred in various parts of the country, the people were deprived of markets and it was impossible for them to pay their way or turn their produce into cash. The amendment will place, for the last two or three years, those who owe rent in the same position as the Bill will place tenants in the future. That is the whole object of the amendment, and if the Dáil wishes to do justice to the landlords, or enable them to pay their debts, perhaps the Minister for Agriculture would apply the 10 per cent. bonus retrospectively for these two years, in order to enable them to settle this question. That is the sole object.

Mr. GOREY: I want to emphasise what Deputy Wilson has said. The actual terms of the Bill and the question of annuities for the future are not the questions that are exercising the minds of the unpurchased tenants at all. They view that more or less with equanimity, but the fact remains that in many cases they owe three years' rent at the moment, or two and a half, or two years' rent. There is also the fact that annuities under

the Bill will be due immediately, or soon. This question of arrears is a greater stumbling block at the moment, seven times greater, than the question of purchase and of annuity. I could not, if I were speaking for half an hour, emphasise it sufficiently, because the people are more or less agreeable to the terms—at least I cannot say that they are agreeable, but they accept them, more or less—but I have heard nobody yet accept the arrears. This is a burning question, a much more burning question than the question of annuity. It will inflict more hardship upon, and will bankrupt the people at the start of the Bill, and in fact it will shake the stability of the State.

It may be that the time is approaching when the State will have to shoulder the responsibilities that they are inflicting in the Act. I think that the State and the Government will be wise to be a bit more just to the tenants on this question of arrears than they have been. It may, perhaps, be a hardship on landlords, but not on many. There may be a small percentage of the landlords who owe mortgages, and owe interest on mortgages, but they are a small number. But you inflict a hardship on a big body of the general community by this question of calling up three years' arrears now. If it could be made something like the terms of the Bill I think the people would meet it agreeably, but if it cannot be met I see nothing but trouble in front of the Government.

Mr. HOGAN: It is perfectly obvious that, as the Unpurchased Tenants' Association were unable to quarrel with the terms in regard to the price, in order to justify themselves, and with an eye to the next election, they had to quarrel about something and be in a position to say, "We have got some valuable concessions on the Bill." That is perfectly obvious, and hence we are debating on this question, and we have a campaign on the question. The forces are obviously concentrated on this particular question. I do not intend to pursue Deputy Gorey's statement. I just make one remark. Deputy Gorey's statements are inaccurate, as I said before, perfectly plainly—

Mr. GOREY: To those who believe it, they are perfectly plain.

Mr. HOGAN: I will not pursue it any further.

Mr. GOREY: Better not.

Mr. HOGAN: I do not believe in this recrimination. I invite the Deputy to bring forward any evidence of that, any evidence he has got, and as he has gone so far, to come forward with the rest of it. I content myself at the moment with saying that his statements are inaccurate. Probably there are differences of opinion in the organisation itself.

Mr. GOREY: Not a bit.

Mr. HOGAN: On this question of arrears I want to point out first that as far as the tenants who pay three years' arrears are concerned, they are better off by this provision which adds a half-year to the purchase money than if their rent was brought up to 35 per cent., as a simple calculation will show.

Mr. GOREY: Better off than if the three years were not in arrears?

AN LEAS-CHEANN COMHAIRLE: Order.

Mr. HOGAN: I said with regard to the tenants who owe three years' arrears. The Deputy always suffers from the disease that he is not able to listen. That is the cause of a great many misunderstandings and of confusion on his part. With regard to the tenants who owe three years' arrears, these are better off under this provision of a half year added to the purchase money than if their rent were brought up to 35 per cent., that is to say, that they pay less down. Let us take an example. Take £100 rent; deduct 35 per cent., which is £65, and that leaves it £195. That is what would have to be paid. The other is £187 10s. By reducing the rent by 35 per cent. instead of 25 per cent. the tenant has to pay £195 on his £100 rent, and a half year's rent added to the purchase money. But the payment down is £195. By reducing it by 25 per cent. and adding half a year to the purchase money he has only to pay £187. Let us get to business on this question and drop politics in regard to it. I would like this question to be discussed strictly on business lines, and not with a view to the next election.

Mr. GOREY: On a point of personal explanation, I do not think this question of elections ought to be introduced at all, because if the Minister insists on introducing this question of the elections, he will hear more about it before he is finished.

Mr. HOGAN: I have extremely good hearing and I invite the Deputy to let me hear anything he likes. I do not want politics in regard to this, and it is obviously politics, as I will show you. I want this discussed as a business proposition, and I point out here and I challenge Deputy Gorey, or any other Deputy who has a knowledge of mathematics—and I believe there are some great mathematicians here—to show that I am wrong, that the payment down by a tenant who owes three years' rent, the payment in cash, if we give him a reduction of 35 per cent. instead of 25 per cent., would be £195, whereas the payment down in cash, if we gave a reduction of 25 per cent. and add half a year to the purchase money, is only £187 10s. There is no doubt about that.

Mr. WILSON: On a point of explanation, what is to prevent the Minister from giving a reduction of 35 per cent. and still adding the half-year on?

AN LEAS-CHEANN COMHAIRLE: That is not a point of personal explanation. The Deputy can speak afterward on the matter.

Mr. HOGAN: Let us drop this nonsense. I hope the time has come when we can discuss land purchase, like any other problem, without going back to the old days of the seventies and the eighties and the nineties. The proposition that was put up was to give a 35 per cent. reduction. Now, I am pointing out that as far as the particular tenants who owe three years' arrears are concerned my proposal is better, and I want to hear any answer to that, and that will give the Dáil a measure of the sincerity of all this thunder. That is number one. Based on my proposition it is £187 and on Deputy Gorey's it is £195 for third year tenants.

Mr. LYONS: But where is he going to get it to pay?

Mr. HOGAN: Further, it is open to the Land Commission to give time to a tenant in any case. They have an absolutely free hand. If a tenant for any reason is unable to pay they can give him such time as they like. Take those two circumstances together and tell me whether my proposal for the tenant who owes three years is better than Deputy

Gorey's in regard to this amendment. That is the man who owes three years. Now, there is, no doubt, a hardship, an unusual hardship, in regard to the tenant who owes two years' arrears. The Dáil should, I think, approach this in some responsible way. If a landlord is not entitled to rent for these three years, say so. It is open to the Dáil to decide that the landlords should not have got rent.

Mr. LYONS: I would give them nothing.

Mr. HOGAN: There is one Deputy who is quite honest about that. There are other Deputies who think that no one should get rent except in a few cases where there are landlords who are extremely anxious to have arrangements made in this Bill by which the people of their own class who happen to be landlords in the old sense of the word, should be purchased and their rents should be redeemed, and the State credit should be used for that purpose.

The thing is a joke. In any event, to come back to the point, let the Dáil decide decently that the landlord should not get rent, and that he is not entitled to it, and that he should not have got it for the last three, five, ten or fifteen years, and go and take his land off him. But do not, in any casual, irresponsible, haphazard fashion, decide that the landlord is entitled to a certain amount of rent, looking at it from the point of view of the tenant solely, and say it does not matter twopence about the landlords; "we will put down this figure." If the landlord should have got any rent he has certain rights in the matter. If he should have got one penny rent he has certain rights, and these rights should be respected. That is not politics, I know, but I find myself saying a lot of things for the last three weeks which are not good politics, and it does not give me much trouble. If the landlord has any right to the land at all this right should be respected, and the question should be decided after examining the whole proposition in a business way, and taking the circumstances on one side and the other into account. In the case of the tenant who owes two years' arrears, it is not as easy for him, as I have pointed out, to pay this two years' rent down as if he paid his rent every year, but we all have to suffer a certain amount of hardship, more or less. Also, the tenants who owe 2½

years' annuity have to suffer a certain amount of hardship. I am just wondering how many tenants withheld their rents for the same reason as the tenant purchasers withheld their annuities. The real objection against the arrears question is not from the small tenant, but from the big tenant. Everyone knows that it was the farmer of 60 or 70 acres who did not pay his rent. He knew the value of money and was doing well.

Mr. GOREY: Politics.

Mr. HOGAN: I would advise the Deputy not to draw me on that question.

Mr. GOREY: I am trying to draw you.

Mr. HOGAN: Take the farmer whose rent is £20 a year, and that is much above the average of the farms we are dealing with. It is a nice farm, a good, economic holding. The valuation of a £20 holding would be anything between £25 and £30. He has to pay two years' rent, and he gets 25 per cent. reduction, that is a reduction of 5/- in the £ or £5. He pays £15 down, and he has paid nothing for two years. I put it to the Dáil—was there ever such a farce as to pretend that the farmer with a holding of £20 valuation is going to be broken because he makes a payment of £15, and in view of the fact that he made no payment for two years? Is there any reason why there should be all this heat about it, in view of the number of big problems we receive here with a certain amount of quietness and equanimity. It is a farce. To put £15 on the man who has a £30 valuation holding, and who has not paid any rent for years is not a hardship, and no one knows that better than Deputy Gorey. He has another year, or a year and a half, to pay the other £15, and I suggest it would be no trouble to such a tenant to pay £20 down, and he will only have to pay £10 then. These are the reasons, you see, why this is not such a hardship as is pretended in regard to people who owe two years' rent. It is nothing like the hardship that is predicted for the small farmer, and certainly not like what it is for the big farmer, for the bigger the farm the bigger the hardship, but to the big farmer also the hardship is not anything like what is pretended. I have dealt with the case of men who owe three years' rent and I have shown as far as their case goes that my proposal is better than Deputy

Gorey's, so far as paying the money down is concerned. That is the hardship to the tenant. I have only one other thing to add with regard to this; we all remember people six months ago who owed 2½ years' annuity, and they were under the impression they need never pay anything again. They took the first opportunity of withholding their annuities, but they did so knowing perfectly well they were making it impossible for us to complete land purchase. But when the Enforcement of Law Act was passed it was not necessary to send the Sheriff to two per cent. of them. There was hardly a case in each county. They all paid it right away, and none of them, so far as I know, got into the Bankruptcy Court. The Farmers' Party, of course, have made a tremendous case of the terrific hardship which existing tenants are suffering as compared with tenants who have purchased. They point out that the purchased tenants were better able to pay. Let us take our old friend with the £20 valuation holding again. I do not know whether the Farmers' Party are interested in that, but let us take the man with the £20 valuation holding. That man was paying £20, and his rent was reduced by £5 a year from 1914 to 1920. This was the year of the strike. His neighbour who did not purchase was paying £20, and he had the same sort of holding, a difference of £5 a year during the war. This difference of £5 a year during the war, to a man who would spend it on pitch and toss at the cross-roads, was supposed to be the terrific hardship they suffered. I want the Dáil to approach this question in a business-like way. These are the figures. Tall talk is easy, but these figures give you the measure of the reality there is in this campaign about the arrears of rent. That is one side. Before I leave that I have this to point out; the Dáil will agree with me that the Land Bill is a contentious Bill, a measure that interests the country pretty largely. I have not seen a Press campaign against the arrears, not even in the local Press.

Mr. GOREY: Who controls the Press?

Mr. HOGAN: I do not know.

Mr. O'CONNELL: The landlords!

Mr. GOREY: I do not know either.

Mr. HOGAN: The landlords, someone said. That may be the reason, I do not

[Mr. Hogan.]

know as much about the Press as Deputy Gorey, but that may be the reason of it. I have got the local papers, everyone of them, and the Deputy knows as well as I know—he has been more around the country—that there is not an honest tenant in Ireland who would not jump at these terms. The only letters I have seen are in regard to this question of arrears. There are, I understand, two Unpurchased Tenants' Organisations. You will find a letter one day in the paper abusing the Land Bill, and abusing the Farmers' Party for not getting better terms for the farmer, and if you think a little you will know where that comes from—from a gentleman, I will not mention his name, who is running the League of Unpurchased Tenants. A few days afterwards you will find another letter coming from the opposite source, pointing out that the arrears terms and the price terms were not as good as if the Farmers' Party were in power, but that at the same time they had done their best to make it better. I am serious about this. These are the only classes of letters I have seen.

Everyone in the Dáil knows the Land Bill is contentious, that all the small tenants of Ireland are interested in it, that all the local papers are interested in it, and if there was to be this tremendous campaign about arrears or prices, then we would have the papers filled with letters. We have had none; we have had no protests. It was admitted by the Deputy, in a moment when he was off his guard, that the price was right.

Mr. GOREY: I did not say the price was right. They accept it because they cannot get anything better.

Mr. HOGAN: It is admitted generally that the price is more than fair. What is the price? It is an accepted fact—I do not think even Deputy Lyons will deny it—amongst the tenants themselves that the price is absolutely fair.

Mr. LYONS: Provided you wipe out the three years' arrears.

Mr. HOGAN: The tenants' reduction is 35 per cent., bringing the amount to £65. There is a ten per cent. contribution to the price, and that brings the landlords' income to £67 14s. Od., just exactly two-thirds of his former income on his second-term judicial rent. Of course any man who has any sense of

responsibility would not think of bringing it lower than that by reason of the fact that the Trustee Acts empower Trustees who hold money and who have to invest it, to invest it in Irish rents up to two-thirds of the amount. That is the amount the Trustee Acts set out, which is considered to be absolutely safe. We have gone to the very border line. I need not argue the case, because the tenants admit that it is fair. I am tired pointing out that the landlord will get his purchase money in bonds. Say, for instance, he gets £10,000; he will get interest on that at four and a half per cent. That will be 67 per cent. of his previous income, roughly two-thirds.

Mr. JOHNSON: Net.

Mr. HOGAN: Roughly, two-thirds, net.

Mr. JOHNSON: That would be more than two-thirds of his net income.

Mr. HOGAN: It would be. There is the point again. The reason the Trustee Acts and other Acts prevent a Trustee from investing money without being covered up to the full value of his security, is that they make allowance for things of that sort—for cost of collection in the case of rents, and allowances for any possible expenses and anything they cannot foresee in the way of cutting down the rents either by purchase or otherwise. Take it that the purchase money is £10,000; the landlord gets four and a half per cent. on that. His income, therefore, is 67 per cent. of his previous income. That is the price. In the event of £5,000 worth of that, representing the redemption price of the mortgage, on that £5,000 he receives four and a half per cent. and he pays, probably, five or six per cent. or more. As I explained before, he gets over that difficulty the minute he gets his purchase money by paying off the mortgage. Until he gets his purchase money he must pay his five or six per cent., and if he only got 67 per cent. of his rents he would be only able to pay four and a half per cent. on his mortgages. I think that is perfectly clear. Hence, if the price is fair, we must give him some more. If the price was calculated at £65 in the £100, a reduction of 35 per cent., and if the payment in lieu of rent and arrears were the same, the Bill would be, on the face of it, unfair and unjust. If the price is

right, we must give better terms to the landlord in regard to arrears, because until he gets his purchase money, he is paying a higher rate than $4\frac{1}{2}$ per cent. on his mortgages. How much higher are we giving him? We are giving the tenants a reduction of 25 per cent. We are collecting the rents and stopping the cost of collection, which takes five per cent. or thereabouts on an average from the landlord. We are bringing him down to £30, so that the only margin left to him is the difference between £30 and £33. That is the business side of the proposition and I invite the Dáil's attention to it. I invite the Deputies, in the first place, to examine the real size of the problem from the tenants' point of view, and see what difference there would be between my terms and the terms the Farmers' Party suggests. If they do, I think they will find there is nothing in them which would put them into the Bankruptcy Court. I invite them to look at the other side and if they do I think they will find we could not have left a smaller margin, in justice, to enable the landlord to pay the extra interest. Under no circumstances can I accept the amendment, and I will not accept it.

Mr. GOREY: The Minister talked a good deal about figures and he talked a good deal about the benefits he was going to confer on the men with three years' arrears of rent. He did not talk about the benefits being conferred on the men who owed two and a half or two years' arrears. I will take a very fair rental, much more than an average rental, in order to make it more simple.

Mr. HOGAN: I thought so.

Mr. GOREY: Take a £50 rental, for instance. If the tenant owes three years' arrears the amount is £150. The Minister proposes that he pays only £125, and that he adds £25 to the purchase money. If he got a reduction of the added ten per cent. on £150, it would be £15. It would mean the difference between £25 and £10 in actual payment at the moment. The Minister, however, refrained from indicating what that would mean to the tenant at the end of the period.

Mr. HOGAN: It is $4\frac{1}{2}$ per cent—a little more than £1 per year.

Mr. GOREY: It would work out at £85 6s. 10 $\frac{1}{2}$ d.

Mr. HOGAN: Compound interest.

Mr. GOREY: No, plain interest. Perhaps the Minister would be able to contradict these simple figures.

Mr. HOGAN: There is no necessity.

Mr. GOREY: The Minister refrained from saying what he was adding to the annuity, or what his payment on 68 $\frac{1}{2}$ years meant. He was not honest with us in dealing with the matter. He was talking politics. He was trying to throw dust in the eyes of the average men outside by talking of the benefit he was conferring on him. He was talking politics—gross politics, his style of politics. I know there is no use appealing to the Minister on this measure. I know the Minister's view. I know his view of his own Bill. I know what he calls it. Confiscation is what he calls it. The Minister says this Bill of his own is confiscation, and he says he has been forced to it by the action of the unpurchased tenants and their organisation.

Mr. HOGAN: Politics!

Mr. GOREY: The Minister has called for politics, and he has got politics. He began in politics and he will end in politics. I do not know whether it is a private matter between the Leas-Cheann Comhairle and myself and my Party; it is a question of a conversation —

AN LEAS-CHEANN COMHAIRLE:

I think we had better clear that matter up. The Minister for Agriculture gave me no assurance whatsoever that he would go further in the way of reduction of arrears than what was suggested in the amendment proposed by Deputy Seamus de Burea. I discussed this matter with him, and he said that was the limit that he could go. I do not think that I gave Deputy Gorey or any other member of his party to understand anything else.

Mr. GOREY: The whole matter is this: Deputy O'Máille assured me and the members of our party that the Minister would meet us in those amendments if they were reasonable.

Mr. HOGAN: Better consult your party and be sure you are accurate.

Mr. GOREY: He told us the Minister would go a long way to meet us. When the Committee Stage was over, I asked Deputy O'Máille why did not the Minister

[Mr. Gorey.]
meet us, and he said the Minister could not rule his party—could not rule the Government—and that he was only speaking for himself.

AN LEAS-CHEANN COMHAIRLE:
I made no such statement whatsoever.

Mr. GOREY: You made no reference to it?

AN LEAS-CHEANN COMHAIRLE:
Deputy Gorey's memory must be altogether at fault.

Mr. GOREY: It is always at fault.

Mr. DAVIN: The Coalition!

Mr. GOREY: Do I understand Deputy O'Máille to say that he never mentioned the matter at all?

AN LEAS-CHEANN COMHAIRLE:
I spoke about the matter, but not in the sense you have mentioned.

Mr. GOREY: You did not say that the Minister for Agriculture could not make arrangements for this matter—that he was not allowed to go the distance he wanted to go?

AN LEAS-CHEANN COMHAIRLE:
I did not make any such statement.

Mr. GOREY: Very well. There is no use in carrying it very much further. The Minister for Agriculture and the Government may think it a very easy and quite a simple matter to recover these arrears, and they may think that the people who owe them are in splendid financial circumstances, and will be able to meet these bills——

Mr. HOGAN: Come to the figures.

Mr. GOREY: The Minister refrained from mentioning the material part of the only figures we have had—the figures in connection with what the landlords owe. The Minister for Agriculture has always held that no money-lender lent, or should have lent, on as Irish rental more than two-thirds of that rental, that anybody who lent more than that was taking considerable risk. He has never given us any figures in connection with the landlords who had their property mortgaged. I have asked before how many of these landlords had their

property mortgaged, how many landlords there are whose rent is in trust for the moneys they owe. We never got these figures. But because a few do happen to have mortgages, the whole body of landlords, who represent the richest element of the community, is going to be paid money that may cripple and bring misery and starvation to a big proportion of the 70,000 tenants. These may be the Minister's figures, but they are not my figures, and they do not fit in with my sense of justice. It is all very well to talk about recovering three years' rent and two and a half years' rent. The Minister can talk very glibly about it. The Minister has other means of living besides the land, and he has not to live on a £16 or £17 valuation. I am glad of that, but it is quite a different case with the men with these small valuations, and I will promise the Minister for Agriculture and the Minister for Defence and all the rest of them a pretty stiff job in recovering these ar-

Mr. HOGAN: You are very much interested in the small holders.

AN LEAS-CHEANN COMHAIRLE:
The Minister should not interrupt.

Mr. GOREY: You have a job to try to keep the Minister in order, and sometimes I have the same job with myself when I am sitting down. In all the previous Bills that we have had only two years' arrears were taken into consideration. In this Bill you propose to take in three years—a thing the people have not got. Because they have not, they will not give it to you. I hope they will not give it to you, and I hope you will have the trouble you are looking for.

Mr. HOGAN: The Deputy has never attempted to meet a single one of my figures.

Mr. GOREY: Your figures are too ridiculous to meet.

Mr. HOGAN: And he has not attempted to meet my point that my suggestion was better for the tenants who owe three years' rent than what the Deputy is proposing.

Amendment put.

The Dáil divided: Tá, 19; Níl, 38.

Tá.

Donchadh Ó Guaire.
Seán Ó Duinnín.
Domhnall Ó Mocháin.
Tomás de Nóglá.
Riobárd Ó Deaghaidh.
Tomás Mac Eoin.
Seán Ó Ruanaidh.
Liam Ó Briain.
Tomás Ó Conaill.
Aodh Ó Cúlacháin.

Risteárd Mac Liam.
Liam Ó Daimhín.
Seán Ó Laidhín.
Cathal Ó Seanáin.
Domhnall Ó Broin.
Domhnall Ó Muirgheasa.
Risteárd Mac Fheorais.
Micheál Ó Dubhghaill.
Domhnall Ó Ceallacháin.

Níl.

Liam T. Mac Cosgair.
Uáitéar Mac Cumhaill.
Seán Ó Maolruaidh.
Micheál Ó hAonghusa.
Seamus Breathnach.
Pádraig Mac Ualghairg.
Darghal Fíges.
Deasmhumhain Mac Gearailt.
Pilib Mac Cosgair.
Micheál de Stáineas.
Domhnall Mac Cárthaigh.
Maolmhuire Mac Eochadha.
Earnán Altún.
Sir Seamus Craig.
Gearóid Mac Giobúin.
Liam Thrift.
Eoin Mac Néill.
Liam Mac Aonghusa.
Pádraig Ó hÓgáin.

Seosamh Ó Faioleacháin.
Seoirse Mac Níocaill.
Fionán Ó Loingsigh.
Seamus Ó Cruaillhlaich.
Cristóir Ó Broin.
Caoimhghín Ó hUigín.
Proinsias Bullín.
Seamus Ó Dóláin.
Proinsias Mac Aonghusa.
Eamon Ó Dúgáin.
Peadar Ó hAodha.
Seamus Ó Murchadha.
Seosamh Mac Giolla Bhrighde.
Liam Mac Sioghaire.
Alasdair Mac Cálba.
Tomás Ó Domhmaill.
Earnán de Blaghd.
Uinseann de Faóite.
Seamus de Burea.

Amendment declared lost.

Mr. SEARS: I beg to move: In Section 17 (2, page 7, line 19), after the words "cent." to insert the words:—
" Provided that any payments made by the tenant after the second gale day in the year 1920, shall be appropriated to the rent which accrued since the first gale day in that year."

Mr. HOGAN: I am accepting this amendment. In the congested districts especially there are amongst smaller tenants a large number of hanging gales. That is to say that for years, even from the time of the tenant's father, the rent is paid half-yearly, but appropriated two or three years back. You may have a man paying three years' rent during 1920, 1921 and 1922, and yet he owes three years by reason of the fact that the payments during these years were appropriated to a period before 1920. That state of affairs exists in the Congested Districts especially and amongst small tenants, and it is to meet that, that this amendment is accepted.

Amendment put and agreed to.

Mr. GOREY: I beg to move: To delete Section 17 (3), page 7, and to substitute the following:—

" Compounded arrears of rent shall be

discharged as to so much thereof as does not exceed 75 per cent. of the annual rent, by the addition of same to the Purchase Price, and as to the balance, if any, by payment on such date or dates before the appointed day as may be prescribed by the Land Commission."

This is an amendment which seeks to give justice all round. It is not a big demand, but an attempt to go some way, at least, to specify the time of the people who have paid rent and who owe rent. It means the adding of one year, or if a lesser amount is owed, the adding of it to the purchase price. It was not an extraordinary thing at all under the previous Acts that a certain amount was added in voluntary purchase agreements, to the purchase money by agreement. This Bill only provides in a later clause for the adding of one half year, and in its first draft it did not provide for the addition of any at all. For the last twelve months a good many landlords have accepted voluntary reductions of 50 per cent., 45 per cent. and 40 per cent., and if it was a question of a voluntary agreement again between landlord and tenant there would not be any hesitation on the landlord's part in

[Mr. Gorey.]
adding that year's purchase price. I think it would be done voluntarily. Therefore I ask the Minister to make this small concession.

Mr. HOGAN: I will not accept the amendment, and I will not comment on the statement that landlords have accepted voluntary payments of 50 per cent. during the last year. There is an amendment already down in the Bill providing that half a year be added to the purchase money, and, secondly, that any rent payable within the period 1920 and 1923 shall be appropriated to that period, even though the receipt on its face sets out that the rent was to be paid for the previous year. That does not interest Deputy Gorey, because this concession will not affect large farmers; it will only make a difference to the small tenants in the congested counties. All

over the congested districts in counties like that of Mayo and elsewhere the small tenants owe for a long time. There are hundreds of cases where the small tenant pays his rent half-yearly, but gets his receipt dated back for two or three years. This relieves him straight away, and provides that any payments made shall be appropriated. That is as far as I will go. That meets the equities of the case. The Deputy himself stated that previous Bills added two years only. We are adding a half-year. We are making this concession. There is no question about it, the non-payment of rent during the last three years was due not primarily to the tenants not being able to pay, but as a protest against non-purchase. That is the distinction between the question of arrears we have now and the arrears owed in 1881 and subsequently.

Amendment put.

The Dáil divided: Tá, 17; Níl, 34.

Donchaill Ó Guaire.
Seán Ó Duinnín.
Domhnall Ó Mocháin.
Tomás de Nógla.
Tomás Mac Eoin.
Seán Ó Ruanaidh.
Liam Ó Briain.
Tomás Ó Conaill.
Aodh Ó Cúlacháin.

Risteárd Mac Liam.
Liam Ó Daimhín.
Seán Ó Laidhín.
Cathal Ó Seanáin.
Domhnall Ó Broin.
Risteárd Mac Fhooraís.
Nícheál Ó Dubhghaill.
Domhnall Ó Ceallacháin.

Liam T. Mac Cosgair.
Uáitéar Mac Cumhaill.
Seán Ó Maolruaidh.
Seamus Breathnach.
Pádraig Mac Ualghairg.
Pilib Mac Cosgair.
Nícheál de Stáineas.
Domhnall Mac Cárthaigh.
Maolmhuire Mac Eochadha.
Earnán Altún.
Sir Seamus Craig.
Gearóid Mac Giobúin.
Liam Thrift.
Pádraig Ó hÓgáin.
Seosamh Ó Faioleacháin.
Seoirse Mac Niocaill.
Fionán Ó Loingsigh.

Seamus Ó Cruadhlaoidh.
Cristóir Ó Broin.
Caoimhghín Ó h'Uigín.
Proinsias Bullín.
Seamus Ó Dólaín.
Proinsias Mac Aonghusa.
Eamon Ó Dúgáin.
Peadar Ó hAodha.
Seamus Ó Murchadha.
Seosamh Mac Giolla Bhrighde.
Liam Mac Sioghaird.
Alasdair Mac Caba.
Tomás Ó Domhnaill.
Earnán de Blaghd.
Uinseann de Faioite.
Seamus de Burca.
Piaras Beasláí.

Amendment declared lost.

SECTION 17.

Mr. BURKE: I beg to move Amendment 15: To add to Section 17, Sub-section (3), the following:—

"Provided that in any case where not less than three years' arrears are due and the tenant so requests in the prescribed manner, one half-year's compounded arrears of rent shall be

added to the purchase money and repaid by means of a purchase annuity calculated at the rate of 4½ per cent. on the amount thereof added to and consolidated with the standard purchase annuity for the holding."

I propose to resist the prevailing tendency or temptation to make an electioneering speech upon this point. I

think the amendment is the best solution of this very vexed problem that has been offered so far.

Mr. HOGAN: I accept this amendment.

Mr. GOREY: We agree to this amendment, which is in accordance with the promise made by the Minister on the Committee Stage.

Amendment agreed to.

Mr. McGOLDRICK: I beg to move Amendment 16, to add to Section 17 the following new sub-section:—

“Where any money has been levied or recovered by a landlord after the 28th day of May, 1923, under or in consequence of any judgment or decree in any proceedings against the tenant of a holding to which this Act applies for the recovery of rent or in ejectment, then:—

(a) if such money shall have been levied or recovered prior to the 3rd day of July, 1923, and so much thereof as consisted of rent exceeds the sum to which compounded arrears of rent would have otherwise amounted, or

(b) if such money shall have been so levied or recovered on or after the 3rd day of July, 1923, and the entire amount thereof (including rent, costs and expenses) exceeds the sum to which compounded arrears of rent would have otherwise amounted,

the difference between such levy or such entire amount (including rent, costs and expenses) as the case may be and the sum to which compounded arrears of rent would have otherwise amounted shall be set off against the moneys to become payable by the tenant in lieu of rent as hereinafter provided, and the equivalent payment by the Land Commission shall be proportionately reduced.”

I do not need to say much in favour of this amendment, except that I want to make an amendment in the amendment. The word “levy” in the last paragraph is a misprint for the word “rent.”

Mr. HOGAN: Yes, the word “rent” was in the original amendment, and I would suggest that we have the leave of the Dáil in making this amendment.

Mr. JOHNSON: Is this the Minister's own amendment?

Mr. HOGAN: I accept the amendment with the change. We discussed the whole question on the Committee Stage, and it was more or less agreed that an amendment upon these lines should be introduced. It was Deputy McGoldrick who spoke upon this particular section, and suggested this amendment. I have only one thing more to say. The Dáil will remember we debated this before for three hours, and that Deputy Gorey said on that occasion that I had promised him that any law costs and expenses levied by the landlord would be set off against arrears of rent due under the Bill, and payments due, under the Bill.

Mr. GOREY: I said nothing of the sort. I said that any rents that would be recovered since the introduction of the Bill would be made good, and that the Minister promised that, but I did not say that the Minister promised me to recover on the question of costs. I said that was the impression I took away from the Minister's attitude, but I never said that I got a definite word from the Minister that he would accept or reject the suggestion.

Mr. HOGAN: I ask the indulgence of the Dáil to point out that I have already been accused of being inaccurate, and I now wish to give a line as to the value of these accusations. The Dáil will remember that, on the Committee Stage of the Bill, I got up and accepted the proposition that rent recovered should be set off against rent due either in respect of arrears or in respect of payments in lieu of rent under the Bill, and I put that to Deputy Gorey as a sporting offer. He answered by charging me with having promised him both rent and costs.

Mr. GOREY: I did not say costs.

Mr. HOGAN: Will you please let me finish? In answer to his charge I agreed on that occasion to set off costs as from the 3rd July. He refused to set them off except as from the 28th May. That is within the recollection of every Deputy in the Dáil, and I would like to know what is the recollection of the other members of the Farmers' Party sitting there.

Mr. GOREY: We accept this amendment as carrying out the promise you made on that occasion.

Mr. HOGAN: I am not talking of that now, but what I am doing is just pointing out to the Dáil that on the last occasion this matter was debated the Deputy charged me with having promised him that I would include costs as well as rent. The Dáil will now notice that that charge is no longer made.

Mr. GOREY: I did not make that charge. On a point of personal explanation, I desire to say that I do not think the Minister for Agriculture has any right to misrepresent what I said.

AN LEAS-CHEANN COMHAIRLE: I do not think it is desirable that we should go back on what happened when another stage of the Bill was under discussion.

Mr. GOREY: I agree, because I do not think the Minister's memory on the point is very good.

Mr. HOGAN: I would like to know, then, what the Deputy did charge me with. I am simply making a statement of what occurred.

Mr. GOREY: On a point of explanation, what the Minister said was that he definitely refused this question of costs. He never gave me a definite refusal, but at the same time he never gave me a definite promise, and in the remarks I made at the time I made that quite clear and distinct. He never gave me a refusal and never gave me a promise. The only thing he said was that it would not be quite fair to prevent a man taking advantage of the law because he had the law to avail of.

Mr. HOGAN: The Deputy admits, then, that I never gave a promise.

Mr. GOREY: I never said you did.

Mr. HOGAN: I would ask Deputies to look up what Deputy Gorey said; he practically called me a liar. I would ask Deputies to look up what he said on that occasion and to take that as a measure of the accuracy of the statements he makes.

Mr. GOREY: What I said was that the Minister never gave me a definite promise.

AN LEAS-CHEANN COMHAIRLE: There is no necessity to go into this matter now; it is all past and gone.

Mr. GOREY: My words on the last occasion hold good.

Amendment put and agreed to.

Question put: "That Section 17, as amended, stand part of the Bill."

Agreed.

SECTION 18.

Mr. GOREY: I beg to move Amendment 17: In Section 18 (1), page 7, line 41, to delete the figures "75" and to substitute therefor the figures "65," and to make the necessary consequential amendments throughout the Bill.

AN LEAS-CHEANN COMHAIRLE: The same ruling will apply on this amendment as on the last, that is, as regards making the necessary consequential amendments throughout the Bill.

Mr. GOREY: This amendment refers to payments in lieu of rent. I suppose the Section is copied from previous Acts, but I am sorry the Minister has not copied more closely some previous precedents with regard to the terms. The previous Acts made a difference of one-quarter per cent. more in payment in lieu of rent than they did in the case of actual annuities to be paid. That operated under the Wyndham and Birrell Acts. Where there was money to be paid in lieu of rent until such time as the vesting order came along one-quarter per cent. more was charged for the money than on an actual annuity under the Wyndham Act. The same also applied to the Birrell Act. There is a bigger distinction made under this Bill, and I would ask the Minister to accept the amendment.

Mr. HOGAN: I am not accepting this amendment. Deputy Gorey knows this is not interest in lieu of rent. There is no interest-in-lieu-of-rent period under this Bill, because from the date on which an agreement to purchase is entered into the tenant is deemed to be paying for the redemption of his holding. I want to draw the attention of the Dáil to this, that Deputy Gorey apparently adopts the 1903 Act where it suits him but that he does not adopt it where it does not suit him. Under the 1903 Act on a £100 holding, the landlord gets £2,200, and under this the sum he gets is £1,500. If the Deputy would be at least logical and suggest that we should still give the landlord £2,200 and should make this difference, that we

should have an interest in lieu of rent period, and only make a difference of a quarter per cent., I agree.

Mr. GOREY: It would not matter what capital sum you gave as long as you have interest to balance it.

Mr. HOGAN: Provided someone else pays for it.

Mr. GOREY: We will pay for it. Make it seven per cent. and capitalise it accordingly. I throw you that as a challenge.

AN LEAS-CHEANN COMHAIRLE: We cannot have the Minister and the Deputy addressing one another across the floor.

Mr. GOREY: He is continually breaking the rules of procedure.

Amendment put and declared lost.

Mr. HENNESSY: I beg to move:—

In Section 20 (3), page 8, line 58, after the word "rent" to insert the words "and save that any question as to whether an agreement for an abated rent was in fact an agreement for a new rent or any question as to the amount from which the deduction of 25 per cent. is to be made in ascertaining compounded arrears of rent and payment in lieu of rent shall be determined by the Judicial Commissioner, whose decision shall be final."

This amendment has already been discussed, and I need not waste any further time in discussing it. I put down the amendment because I understand there are many cases in which agreements have been arrived at between the landlord and tenant and abatements have been offered to the tenant in his rent. They were not exceptional abatements. They were granted by the landlord, as he saw there were sound reasons for doing so. I want such tenants to get the full benefits of the present Bill when it becomes law, irrespective of the period. It may be forty years or two years ago when the tenants got those abatements. I think this amendment would cover all such cases.

Mr. HOGAN: I am accepting this amendment, which we have debated already.

Amendment put and agreed to.

Section 20, as amended, put and agreed to.

Mr. DUGGAN: I beg to move:—

In Section 22 (2), page 9, to insert a new paragraph after paragraph (c):—

"Any parcel of untenanted land which consists of or forms part of land which was purchased under the provisions of the Irish Church Act, 1869, for a sum not exceeding two thousand pounds."

The effect of the amendment is to exclude from the operation of Section 22 any such lands.

Mr. HOGAN: I think there will be no discussion about this amendment, which I am accepting. This was an oversight in the Bill. The amendment deals with purchasers under the Irish Church Act of 1869. A certain number of tenants of one kind or another purchased under that Act, and they get the benefits of ordinary farmers, which they are.

Amendment put and agreed to.

Mr. McGOLDRICK: I ask leave to withdraw the following amendment, which stands in my name:—

In page 9, line 42, Section 22 (2) (d), to add after the word "ground" the words "Provided always that, till the Oireachtas otherwise provides, the status duties privileges disabilities and rights at the option of a tenant of a holding coming under this sub-section shall notwithstanding anything in the contract of tenancy be that of a judicial tenant in and of the holding for a third term with this modification that if any portion or the whole holding be hereinafter required for public purposes or by the local sanitary authority for building or otherwise the price to be paid to landlord and tenant respectively shall be the value of their respective interests in the land as agricultural or farming land."

Mr. JOHNSON: I object. I was hopeful that this was one of the amendments that the Minister would be prompted to accept. Am I mistaken?

Mr. HOGAN: Oh, yes. It is not really a question of prompting. These amendments which we have down now were envisaged on the Committee Stage and suggested by Deputies of my own Party. This amendment would defeat the Deputy's own purpose. It is mak-

[Mr. Hogan.]
ing judicial tenants, and our aim is to buy out these tenancies. The effect of the amendment is to make certain tenants judicial tenants. Our aim is to buy them out, whether they be future or not.

Mr. JOHNSON: My interest in this amendment—I must admit I have not given it careful consideration—is that it might ensure that local authorities would be able to acquire land for building purposes.

AN LEAS-CHEANN COMHAIRLE:
The amendment has not been proposed.

Mr. JOHNSON: I propose it, then. It is the latter part of the amendment that I am concerned with. I was hopeful that it was one of the amendments which the Minister is prepared to accept, and that it was in fulfilment of one of the promises that he might have made. Apparently Deputy McGoldrick has not the assent of the Minister in formulating this amendment. Nevertheless, I think he was well advised in the latter part of it, and I would like some assurance that within the Bill it may be possible for public authorities to obtain portion of a holding, where it is required for public purposes—for building or otherwise—at a price in conformity with the price fixed by the Bill itself. Perhaps Deputy McGoldrick would explain more fully the purpose of the amendment as originally intended, and that then the Minister would explain why it would not be accepted.

Mr. McGOLDRICK: I put this amendment on the Paper on account of my knowledge of conditions in a great many cases around large and small towns with regard to lands like these. I was under the impression that the word "holding" in Sub-section (d) meant that if there was a small holding convenient to a town, or even if there was a holding a considerable distance from a town which might abut upon a road which ran from or to the town, and which could be alleged to have potential building possibilities, that holding thereby became a holding that could not be vested in the occupier by the Land Commission on account of Sub-section (d). I came to the conclusion that some town tenants and a good many other small people in towns who occupied or had a little bit of land convenient to the town by which

they supplement their scanty earnings and bring up their family and help themselves in that way, were going to be placed at a disadvantage by this Sub-section. I knew that for the last thirty-five or forty years those people have been the backbone of the land war. It was they who fought, or enabled us, in the North at any rate, to keep up an official organisation of any kind to fight the battle of the farming classes. On that account I did not want to see them ostracised by any section of the Bill and prevented from becoming the vested owners of their little bits of land. That was the specific reason for which the amendment was put down. But the Minister has given me to understand, after a critical consultation, that what is set out in Sub-section (d) does not mean that that portion of a holding which is not regarded as eligible for building purposes is going thereby to be ruled out of court, but that it is going to be purchased and vested the same as if it had not any building possibilities. The other proviso as to land becoming useful and necessary for the development of towns and for local sanitary purposes was meant to be fair to all parties. It should be really the agricultural value of the land to the landlord and the tenant that should be taken into account when local authorities want to obtain land for the development of a town or to improve the sanitary condition of the town. The reason I put down this amendment was to serve these two objects. I am led to believe by the Minister in charge, and I assume that the Land Commission will interpret these things in a fairly friendly spirit, although when the trained judicial mind comes to interpret these things it is generally guided by the literal legislation. Such officials interpret Acts of Parliament very strictly, and if this came before a very conscientious official there is a liability to have the legislation interpreted in a way that was not the intention when it was passed. We must trust to the assurance that is being given. With regard to the second part of the amendment, perhaps we might hope that the new Land Commission, in dealing with such matters, will do so in a spirit that will give satisfaction that was not given in the past.

Mr. HOGAN: Deputy Johnson wants to provide that a local authority which already has power to take land compulsorily shall take it at a certain price. That is

the only effect of the amendment from his point of view. I find it difficult myself to understand the amendment, but I think that is the point of view that the Deputy put forward. The Bill already provides that building ground shall be excluded, or land suitable for building. That is only right, as any other course would be a grave hindrance to the development of towns. It is only right, and I think will be admitted that land suitable for building should be excluded, that no tenant should be made owner of it, and especially a future tenant, who is, in 75 per cent. out of 100 cases, a big shopkeeper in the town who has taken the land any time for the last 20 years up to the last three or four years and who is merely a future tenant should not become owner in fee-simple. It would be grossly unfair if he did. The only purpose served by this amendment is to ensure that if the local sanitary authority want this land afterwards they shall pay for it the value of the land as agricultural or farming land. I do not want to express any opinion whatever on that subject. This is a Land Purchase Act. It professes to deal with agricultural land, and I think it will be generally admitted that the definition of agricultural land and agricultural tenancy is pretty wide. We deal with all agricultural land except certain specified exceptions which we have put down in writing. We have left nothing in general or vague terms. We deal with all genuine tenants, whether present or future, judicial or non-judicial. This Bill is to deal with agricultural land. It is to take land from one party and give it to another. Where land is not agricultural it is excluded. If it is building ground, or ground suitable for any other purpose, appropriate legislation directed to dealing with that particular problem will have to be invoked. I could not undertake in this Bill, which is intended to deal with the price of land as agricultural land and to exclude land used for other purposes, to lay down a price at which such land shall be taken later on in the event of its being taken under existing legislation, or in the event of an Act being passed to take it for some other purpose. It would not be a sound principle to act upon. I think we have done our duty in this Purchase Bill by excluding such

land. We will have to leave it to the laws regulating the acquisition of property compulsorily by a local authority to say what will be the price paid for it. Where land is taken for building purposes the local authorities do not take, I should say, 25 per cent. It is the private owner who does it. This not only safeguards the local authority, but safeguards the private owner who is going to build, which is a matter of policy and good for the State and good for the towns. I see no way out of that position.

Mr. JOHNSON: I agree with a good deal that has been stated by the Minister, and I realise that what I am mainly interested in in this amendment is not quite fitting in this Bill. I would like it to have been possible to embody it, but it is not being so embodied. I thought perhaps there was an opportunity of doing so in Deputy McGoldrick's amendment, but in view of the statement made by the Minister I beg leave of the Dáil to withdraw Deputy McGoldrick's amendment.

Mr. HOGAN: I have only one thing to say, that before long I will probably have a Bill before the Dáil for the purpose of taking land for building near towns. It will apply not only to landowners, but probably to some of the land of large farmers, and in view of the statements that have been made here we will probably be able to get the land at a very cheap price.

Mr. WILSON: The Minister may not be in office then.

Amendment, by leave, withdrawn.

Mr. DUGGAN: I move Amendment 21: "In Section 22 (4), to delete the word 'landlord's' and insert in lieu thereof the word 'owner's.'" The effect of the amendment is that the condition shall apply whether the owner of the particular type of land referred to is the landlord or is not.

Mr. HOGAN: I am accepting this amendment. It should be "owner," because it might be an owner who, technically, would not be the landlord.

Amendment agreed to.

Mr. FITZGIBBON: I move: "In page 9 to add a new paragraph after Section 2 (2) (e), as follows:—

"Any glebe, as defined by the Act of 38th and 39th Victoria, Chapter 42, which now is, or hereafter shall be, held or occupied by any "ecclesiastical persons" as by the same Act defined."

I think that this particular class of land was probably omitted from the exceptions through an oversight. The reason of it is this. Under the Church Act, when the Church was disestablished, the Representative Church Body was allowed to purchase back from the State a limited quantity of land to be attached to the residence of the person who was called an "Ecclesiastical person." He could be a parson or a curate or a dean or a bishop, but a strictly limited amount of land was permitted to be purchased from the State as an attachment to these ecclesiastical residences. Cash was paid to the State for it, and that land is occupied now by persons who hold it under leases, and therefore it is plainly tenanted land under the Act. But the present tenants would be put into perpetual occupation of their holdings and would be compelled to purchase under this Act—these particular ecclesiastical persons who happen to hold this land on lease, from their own ecclesiastical superiors. It is extremely improbable that any of them desire to purchase, and it would be very hard, if any of them desired to give up their present callings and take up farming, that they should be allowed to take up these holdings, subtracting them from the Representative Church Body, which holds them more or less in trust for the whole Church, and to take away whatever ecclesiastical residence there was on the holding. I think that this matter was plainly omitted there and is an oversight, and I suggest that this should be accepted.

Mr. GOREY: I have no objection to the amendment at all, but I would like an explanation of one particular portion of it, which we may have an objection to: "Any glebe which now is or hereafter shall be held." I can follow it up to "which now," but what does "or hereafter shall be" mean?

Mr. FITZGIBBON: It will be let as tenanted land to other people. Supposing

that the particular parson who happened to occupy some glebe land were to die or to resign to-morrow, that land would again be let to his successor, and would then again become tenanted land. There is also some of it which may be untenanted land at present owing to a vacancy, and which will be let, as soon as the vacancy is filled, to the future occupants, and therefore, you see, it is pretty clear that the words "hereafter may be" are necessary. They are also taken from the exceptions in the previous Land Acts, and they cannot apply to any land except glebe land, defined by the Act, 38th and 39th Victoria. That glebe land was defined as the land that was bought by the Church Body from the State at the date of Disestablishment.

Mr. GOREY: If the words are not necessary, I do not think they should be there.

Mr. FITZGIBBON: They are necessary.

Mr. HOGAN: I accept this amendment. I think it is obvious to the Dáil that these clergymen do not wish to purchase and become farmers. There is no question about it that the amendment should be accepted.

Amendment put and agreed to.

Mr. JOHNSON: I think it is on this section that I would like to ask for some assurances. It has been put to me that the question of mill holdings is not quite clear, and I am asked to find out—I think it is a reasonable proposition—whether under the Bill the occupiers of mill holdings will have the right to purchase in such cases where they have erected buildings and put in machinery themselves. I think some question on this was raised on the last Reading.

Mr. HOGAN: There was.

Mr. JOHNSON: I am not clear as to what interpretation was given by the Minister.

Mr. HOGAN: It is absolutely clear that mill holdings are purchased. Clause (b) excepts "any land which is not at the date of the passing of this Act substantially agricultural or pastoral or partly agricultural and partly pastoral in character." The usual mill holding is

generally bigger than the average-size holding. It was let originally as a mill holding, and at the time it was let milling was a profitable business, and a very large percentage of the profits made out of the whole letting came from the mill, and it was decided that it was not agricultural land. At present milling is not such a good business. Mills are, without any question whatever, agricultural, but they were ruled out by reason of a previous decision, and in order to meet it we simply put in "any land which is not at the date of the passing of the Act." I think I am perfectly safe in giving the Deputy an undertaking that that will cover the case. Of course, it would not cover a mill which was in a backyard in a town. We assume it is a mill holding in the country.

Mr. JOHNSON: The case in point is a mill holding which is not more than 1 acre and 12 perches. All the buildings were erected by the present tenants who are the owners of the mill, but although they have been in occupation for 100 years, they are still holding as yearly tenants. They are very anxious to extend a certain local industry, but because of the inability to get any permanence they are precluded. That is one case. I am told it illustrates a considerable number, and the assurance is desired that such holdings may be bought under this Bill, even though they are quite small.

Mr. HOGAN: Is the holding in question in a town?

Mr. JOHNSON: Oh, no; a country holding.

Mr. HOGAN: Well, of course, I would not like to give the Deputy a decision off-hand, without knowing all the circumstances.

Mr. JOHNSON: I can quite see that.

Mr. HOGAN: But I do know we have ensured that any holding which is even partly agricultural and partly pastoral shall be purchased. We cannot do any more than that, but I think it will cover all the cases of mill holdings that I know.

LIAM de ROISTE: I think I raised this question of these holdings when the

Bill was previously in Committee, and the case I have in mind is not situated near a town. It is probably analogous to the case that Deputy Johnson mentions. If I may, I wish to make a little protest against the Press. It may be due to the bad acoustic properties of this building, but they gave me as saying "mill holdings" instead of "mill holdings." Whatever the Press meant by that I do not know.

Motion made and question put: "That Section 22, as amended, stand part of the Bill."

SECTIONS 26 & 27.

Mr. DUGGAN: I move: "In Section 26 (2) after the word 'holding' to insert the words 'and the additional annuity (if any) in respect of compounded arrears of rent added to the purchase money.'" That amendment is consequential on the amendment that has already been accepted, and is intended to cover cases in which the tenant, instead of paying his arrears in cash, has them added to the purchase money.

Amendment agreed.

Motion made and question put: "That Section 26 as amended stand part of the Bill."

Agreed.

Mr. DUGGAN: I move: "In Section 27 (4), line 23, after the word 'holding' to insert the words 'and the additional annuity (if any) in respect of compounded arrears of rent added to the purchase money.'" That is identical with Amendment 33.

Amendment put and agreed to.

Motion made and question put: "That Section 27 as amended stand part of the Bill."

Agreed.

SECTION 29.

Amendment by **Mr. DOYLE:** "To insert after Section 29 (1) (g), line 29, a new paragraph as follows:—

'Where the farm of an evicted tenant is in the landlord's possession such evicted tenant should be restored to his own holding, and also where *bona fide* evicted tenants' land is in the possession of grabbers who never paid compensation for

such holdings, the evicted tenants should be restored to these holdings.' "

AN CEANN COMHAIRLE: I got this amendment from Deputy Doyle at the last moment. It could not be moved, of course, in the form in which it stands. It would have to be changed if it were to have any force. The word "grabbers," I think, would have to be changed to "persons." I do not know whether the matter is not in itself too vague for any reference in an Act of Parliament, but I will let Deputy Doyle explain himself.

Mr. DOYLE: My object in moving this is where a farm is in the landlord's possession unlet, that the *bona fide* evicted tenant should, in every case, be restored to his own holding. I think the object is quite plain, that where a landlord has evicted a tenant some years ago for non-payment of rent and he still holds that tenant's holding on his own hands, and it is there to be disposed of under the several provisions in the Bill, I do not see any reason why the original owner should not be restored. I know many cases such as I am talking about, where the original holding is in the hands of the landlord, and where if a provision was inserted in the Bill to get back that holding, it would be only a slight concession in the Bill in favour of evicted tenants. The *bona fide* evicted tenant's holding is in the possession of persons who never paid any compensation to that original evicted tenant or paid anything for the holding. Perhaps it might be five, six or ten years in his possession, and it is still in his possession, and he has had a few fat years out of it. I do not think it would be any hardship to disturb such a man. It was persons such as these grabbing farms who created the land-war, and I do not think they are entitled to any consideration whatever under the Bill. I have, therefore, pleasure in moving the motion.

AN CEANN COMHAIRLE: It will have to be considerably altered before it could be possibly moved, even to get that particular purpose Deputy Doyle speaks of

Mr. WILSON: Provided the Minister

accepts the amendment, Deputy Doyle is quite satisfied to have whatever phraseology the Minister suggests.

AN CEANN COMHAIRLE: The purpose Deputy Doyle speaks of could be presumably accomplished, I take it.

Mr. HOGAN: Except it would be inconsistent with the previous provisions of the Bill it could be accomplished.

AN CEANN COMHAIRLE: Would it be inconsistent with things already passed if inserted here?

Mr. HOGAN: Only to this extent; it suggests that the man should be put back in his original holding, but we may be taking that land for the relief of congestion. In the Bill land can be taken compulsorily for the relief of congestion, and there is priority for that purpose; we might be taking that land for the relief of congestion, taking it compulsorily, and it must be made clear whether it is the evicted tenants' claim or the congests' claim is the first to that land.

Mr. DOYLE: On a point of order, I do not think that any congest would have a claim to such land. I think the original tenant should be replaced.

AN CEANN COMHAIRLE: I want to get the amendment worded so that if it passes it would accomplish something, and even if rejected it would be taken as trying to accomplish something. Supposing we word it this way:—

"Where the farm of an evicted tenant is in the landlord's possession such evicted tenant shall be restored to his own holding, and also where *bona fide* evicted tenants' land is in the possession of persons who never paid compensation to the evicted tenant for such holdings, the evicted tenants shall be restored to these holdings."

Mr. HOGAN: That would make the meaning clear.

Mr. DOYLE: I am satisfied.

Mr. ROONEY: Would the Minister

accept the principle outside congested districts?

LIAM de ROISTE: I desire to support this amendment, even though in my opinion it does not go far enough. I think, still, notwithstanding the arguments that were put forward against the case for evicted tenants, that those who were evicted from their lands for non-payment of rent when the land fight was on, have the best right to the land they were evicted from. In many of these cases, as is well known, where tenants were evicted from their holdings, the land from which they were evicted was held for centuries by their people. Now, if the opportunity is there for us to do it, the persons who are best entitled to any of that land are the persons who were evicted from it. They have, I submit, a prior claim, even to the congests, for in their own view, and the general view of the country and of the farming community, they are the persons who have the best title to the farm. In other words, they were the owners. I think that principle ought to be admitted that they have the first claim as they were the original owners of the ground, and they were disturbed owing to the laws that operated at that time, and owing to the rack-rents they had to pay, and to the general system of landlordism. If there is any justice in the case these are the persons who should be put back into their own holdings. Deputy Doyle's amendment only deals with a certain number of those cases where the land is still held by the landlord, but there are other cases, and the Minister has not accepted the principle of putting any of the evicted tenants back on them. This is only a small portion of the matter, but in these particular cases where there will be practically no disturbance he should accept the principle that the persons who were evicted from their farms owing to the landlords of the past and various other causes should be restored to their holdings. These cases could be inquired into by the Land Commission, and their claims met in justice.

Mr. DAVIN: I think there is everything in the amendment, especially with the altered wording, that should commend it to the Minister and the Deputies.

When speaking the other day on the Flogging Bill, or the Public Safety Bill, the Minister for Home Affairs said he was making a law to meet confiscation with confiscation. I think everybody will agree that the cases of many of the tenants who have been evicted from their holdings were nothing short of confiscation, so that the argument used by the Minister for Home Affairs on that occasion could be applied by the Minister for Agriculture in these cases. I have received communications from evicted tenants, and I will trouble the Dáil by reading an extract from one which I think is provided for under the terms of the amendment, if accepted by the Minister. This is from a man who I believe is a member of Deputy Gorey's union, and in whom in the ordinary course of events I would not be interested, as I do not know the man personally:—

“Our families were evicted (but prior to '80). I remember the eviction myself, from over 200 acres. Firstly, the rent was raised as the then landlord thought my father would not pay the rise, and when he paid the rise of rent at November he was then ordered to leave as the landlord wanted it for himself, and on the 15th of the following month, December, he was on the road without owing even one penny rent, and no compensation whatever, and about the same time my father's father, and brothers, were evicted from another farm after building every house on the place from the ground, roofing and slating; they are there to be seen still within about 12 miles from— not owing one penny rent, nor never got any compensation.”

I think the Minister, even in his wild moments, would admit that is a reasonable case that should be provided for under the terms of this Bill. I just quoted an extract from a letter to show that it is one of the cases that should be met under the terms of the amendment moved by Deputy Doyle. There may be, and I am sure there are, many other such cases. The evicted tenants who have been looking forward to justice under the first Irish Land Bill, will be glad, I am sure, to hear from the Minister that he will make provision for cases of this kind.

Mr. HOGAN: As the Deputy has

[Mr. Hogan.]

said, in my wild moments I might accept the amendment, but in my sane moments I would not think of doing that. There has been some change of words in the amendment, but as it stands we know the meaning of it. There were more evictions in the congested districts than in any other place in Ireland. We know there were far more. At the present moment, as everyone who takes a real interest in land purchase knows, our difficulty is to find land in the congested districts to relieve congestion. We find thousands of holdings on cut-away bog all over Mayo and Leitrim and every other county which has its congested districts, without any land in the neighbourhood to make them economic, except a certain limited amount of untenanted land. It would be very difficult to get the people to migrate. You can only pick and choose when you are migrating. You have no way in which to deal with the greater number, except to find land in the neighbourhood or the adjoining county. Will anyone suggest that a man living on a holding with a £3 or £4 valuation, who is trying to rear a family and to support his wife and that family, has not a prior claim in equity and justice to anyone else in the neighbourhood? I am surprised at Deputy Davin making such a suggestion.

Mr. DAVIN: I quoted an extract from a letter for the purpose of proving that the person who lost a holding has the first right. It is not a case of a person with 200 acres. There are many cases of people with very small holdings.

Mr. HOGAN: I understood the Deputy supported the amendment. I am pointing out that under the amendment as it stands the suggestion is that if there were no other land than 200 acres of land in the hands of a landlord, and a farmer had been evicted out of that 30 or 40 years ago, we are to bring back that person now instead of dealing with the congestion that exists in the district. How anyone in his saner moments, not to speak of his wilder moments, could make a proposal of that sort, beats me. That is one aspect of the matter. To take the other aspect, does the Deputy suggest that the man evicted from two

or three hundred acres should be put back upon that holding now?

Mr. DOYLE: I do not know of any two or three hundred acre holding from which a person was evicted.

Mr. HOGAN: I know of such cases, and I think Deputy Davin knows them too.

Mr. DOYLE: I know of none. I know of no places where persons were evicted from three, two or even one hundred acre holdings.

Mr. HOGAN: Deputies put down amendments having certain specified cases in their minds, and they are utterly oblivious to the fact that the amendments cover cases for which they were not intended. I know, and Deputy Davin knows, of cases of men evicted from two or three hundred acre holdings. Such cases occurred at Leix. It is suggested that those people are to be put back on their holdings, notwithstanding that the whole policy of the Bill is to take any land, even tenanted land if we want it, for the purpose of relieving congestion. If these men were never evicted we might be taking the holdings off them under this Bill. These are the practical difficulties against this amendment. First we would be putting tenants back into the only untenanted land available for the relief of congestion; secondly we would be putting them back into holdings of two or three hundred acres. That is what would happen under the amendment. We never intended to, and we never could, right all the wrongs done under the *agris* of English rule for the last 30 or 40 years. It could not be done and the Deputies know it. If farmers are entitled to have righted all the wrongs that they suffered, then the same would apply to other sections of the community. I admit there is a special case with regard to evicted tenants, and we will go a certain distance to meet it. We have provided that tenants evicted since 1878 should be dealt with, and where there is land available, an evicted tenant who does not come under those provisions will be considered as a suitable person. That is doing more for the farming class than is done for any other class, shop-

keepers, labourers, or any others. Now it is suggested that because they or their fathers suffered under English rule, we are to right every such case at the expense of the State. That is the issue. Now as regards evicted tenants, I met a few deputations.

Those evicted tenants put forward the suggestion that was put forward to-day in this amendment, and the suggestion put forward by Deputy de Roiste. One was that any man who had left his holding for any reason whatever whether ejected by the landlord or sold out in any other way should be regarded as an evicted tenant. That is to say if a man were too dishonest to pay for his tea and sugar and was sold out by his creditors that that man was to get a holding at the expense of the State. He was to be regarded as a patriot, a wounded soldier of the Land War. Another suggestion was made. An amendment was produced, and it was to the effect that any evicted tenant whatsoever should be brought in. He deleted the words "twenty-five years, before the Act of 1903," and substituted "heretofore." "Heretofore" was to be inserted to provide that people could go back to the time of Brian Boru. In addition, if any evicted tenant or his representative preferred to take the money to getting the holding that he or they should be paid the money. This would have meant that the Bill would cost about one thousand millions, of which five hundred millions would go to New York and Chicago. I met recently a body of evicted tenants and they put forward these suggestions (1) that they are to go back as far as they liked; (2) that anyone who was ejected from his holding for any reason, should be regarded as an evicted tenant, whether he lost the land as a result of being evicted by the landlord, or that the farm was sold out by creditors or anybody else; (3) that they should get back into their full original holdings. The man who put forward the points I have just mentioned, when questioned by me, admitted to me that he was evicted out of his holding, that there was a certain sum due under a family settlement. He refused to pay this money, and as a result of his refusal his relations took action against him and on his refusal to pay he was finally sold out. The next case was the case of a man who told me that his grandfather had

lost something like 300 acres and that he wanted that back. I asked him "did you apply under the 1903 Act"? and he said "I did—my father did." I asked him if he got a holding. He said he did. I asked him "where is it"? and he said "We sold it." The fact is that 50 per cent. of the reinstated tenants under the Act of 1903 have sold their holdings. Everyone knows it. We can do no more for the evicted tenants than we are doing, and we could not accept the amendment.

Mr. DOYLE: The Minister has told us of his experiences about evicted tenants. I am not asking one-eighth of that. I am only asking what comes under the twenty-five years. If the Minister is so fond of the congests I leave him the congests and ask him to apply the amendment to the outside districts. I leave him the congests as they are. I do not believe you will have a single application for any 300 acres or 200 acres, or even for 100 acres.

Mr. HOGAN: Deputy Davin will probably be giving some information on these points.

Mr. DOYLE: The Minister told us a lot that we did not want at all.

Mr. DAVIN: The Minister places an exaggerated interpretation on the points and misrepresents the case that I quoted. I read an extract from a letter where an individual was evicted from 200 acres of land, and I did not say what land it was, or in whose possession it is at the present time.

Mr. HOGAN: I did not accuse the Deputy of advocating a policy of giving anyone 200 acres at the expense of the State's credit, but I pointed out that that was the effect of the amendment.

AN CEANN COMHAIRLE: That is quite correct.

Mr. DAVIN: The Deputy who moved the amendment had so much confidence in the Minister that he was prepared to leave the wording of the amendment to the Minister himself, if he accepted the principle of it. I quite

[Mr. Davin.]

agree that the word "grabbers" as it was in the original amendment is not Parliamentary and would not in any circumstances be accepted by the Minister. Therefore, that is one reason why Deputy Doyle was going to trust the Minister to re-draft the Clause. However, the Minister has placed a good deal of stress upon the position of people in the congested districts. I put it to him that the evicted tenant or representative of the evicted tenant who has a just claim is in a far worse position than the people in the congested area, and that is the real case I put up to him to make provision for such men as I have cited. There are many others I know who were tenants and who have been evicted during a certain period. That is the reason why I ask the Minister to accept the amendment moved by Deputy Doyle.

Mr. HOGAN: The Deputy says that the representatives of the evicted tenants are in a worse plight than the congests living in the congested areas. That is probably because he does not come from the congested areas and does not know anything about their privations. Anyone who knows anything about the question knows that that is not so. With regard to the suggestion to apply the amendment outside the congested areas, I cannot do it. There is congestion outside the congested district areas, and there would be plenty of cases cropping up. If the evicted tenant gets State credit and an equivalent holding, he is well done for.

Mr. DOYLE: If the Minister does not accept this amendment I think he has not much sympathy with the evicted tenant. I hope he does not accuse me of doing this for electioneering purposes.

Mr. HOGAN: I have never accused him of any such thing. I have not a terrible lot of sympathy with a lot of evicted tenants.

Mr. GOREY: I think Deputy Doyle means the *bona fide* evicted tenant. We do not mean men who have not a *bona fide* status. He means where *bona fide* land is in possession of grabbers.

Mr. DAVIN: That is dropped.

Mr. GOREY: I do not know whether it is or not. It was a good word that everybody understood and attached a certain meaning to.

Mr. HOGAN: I do not object to it.

Mr. GOREY: Anybody who had any sympathy with the grabber in this country was never any good and I do not think that he is any good in any country. If there is any sympathy or fair play for evicted tenants, as there was under previous Acts, they would be restored as far as possible in their own holdings. The whole case has not been met. Land could not be found for them before, but now you are finding land for them. I know the Minister's difficulty in congested areas, and in fact it would not be fair to press him on that matter. The evicted tenants are on a different plane from the congests, because these people have had property taken from them through no fault of their own. It was taken because of a certain system and because of the stand they took. I think the genuine evicted tenant ought to be put back, as far as possible, on his own land, whether it is in the hands of the landlord or grabber. This is nothing new to us under the English Acts—to see grabbers taken from the land they grabbed and the original owner planted on that land. Men were taken from county Wexford and put on land in my own county. I do not see why this Government should not do the same. It is only copying from previous Governments, and they did it.

Mr. MILROY: I think one thing is forgotten by the mover of this amendment. If this amendment were strictly adhered to it would put men back on congested and uneconomic holdings. Would that be an indication of sympathy with the evicted tenant? Would it not be better to put him on an economic holding somewhere else? That, I take it, is the procedure which the Minister hopes will be eventually carried out. I think it is unfair to charge him with lack of sympathy towards the evicted tenants.

Mr. GOREY: I did not charge him with that.

Mr. MILROY: No, but it has been

implied. If the problems that this Bill purposes to be a solution of are to be met in some sane, effective fashion there will have to be some procedure to find the best economic methods of dealing with them. As was indicated by the Minister at a previous sitting, his procedure was, after the land had been vested, to deal then with the question of congests and after that with the evicted tenants, in so far as can be done. Also an amendment to Section 29 was put in which indicated that the claims of persons to special treatment could go beyond the year indicated in sub-section (c) of Section 29. It is simply a question of dealing with this matter in a business-like manner and doing justice to all, but obviously if this amendment were carried into effect it would be a stumbling block to the securing of that objective.

Mr. JOHNSON: The frequent reference to the justification of the word "grabber" is rather interesting. I think probably if those who attempt to justify the use of it are right in this, they would be prepared to substitute the word "scab" or "blackleg." It has the same meaning that Deputy Gorey holds in regard to the grabber which other sections of the community hold in regard to the scab or blackleg. I want to ask the Minister— I think this may help to make more harmony on this question—whether the alphabetical order of persons to whom advances may be made under this Section is intended to indicate the order of preference, and is the unit of consideration to be the whole country or to be the estates? For instance, are we to consider that the first persons to be considered through the whole of the area are congests, and only after all the congests have been made holders of economic holdings will the persons under paragraph (c) be considered, and so on? Is the order of preference to be followed by the Land Commission to be in districts? Is the same order to be followed in certain districts or will the people who come under the letter A in one county not be transferred to another county; or will the people who come under (d) in one county have to wait until all the A's throughout the country are fixed in holdings? I think, if that is not the interpretation, there is general agreement. Even Deputy Doyle, I think, has conceded the point that congests ought to

be first considered, but, having done that in general and having dealt with those under B, surely it is not to be refused that where it is possible, where there is an evicted tenant to be reinstated or to be given a holding, he should be given a holding on the estate, at any rate, or in the holding where it is possible he was evicted from? You may be evicting the present tenant, but I do not think it would apply universally at all. Personally I would say that some fitness for the job would have to be taken into account, but preference should certainly be given to the evicted tenant for reinstatement in the place he was evicted from, if that place were available. If there can be arrangements made of any kind, even with compulsory eviction of the present tenant if that tenant is not doing full value to the holding, the evicted person ought to be put back into that holding. The claim for the reinstatement into the tenant's old holding is a good one. Where it is possible without doing greater injustice it ought to be conceded, and I would ask the Minister for Agriculture to consult with the Minister for Home Affairs, and to consider whether something in the nature of the Tenants Rent Act, about the greater injustice or the greater hardship, might not be possible in this respect.

Mr. HOGAN: With regard to the first point it is stated that congests have the first claim, and that is right. The Land Commission must be sure that they have enough of land to relieve congestion before they give land to anybody else. Immediately congests are dealt with then the other parties come in and there is no particular order of priority. It would vary in every estate according to the special circumstances of each case. A labourer might get a holding as a landless man before an evicted tenant and *vice versa* on other estates. There is no priority whatever. That meets the first point.

With regard to the second point we could not, of course, put back an evicted tenant on a holding of 100 or 200 acres of land. We could not do it. It is never done and I take it the Dáil does not wish it to be done. Secondly we would not put back the tenant on a congested holding. That also would be the effect of the amendment as it stands. Thirdly, we would not put a tenant back on a holding whether

[Mr. Hogan.] it was inside or outside congested districts if the particular holding was vacant and needed for the relief of congestion, because if the tenant himself were there we might be taking it from him. Deputies must remember where any land exists for the relief of congestion we are to take it. For those three reasons we could not accept that amendment as it stands. It would compel us to do three things which I do not think the Dáil or the Deputy making the suggestion thinks ought to be done. That is No. 1. With regard to the grabber, I know just as much as anyone about him. There have been more evictions in the County Galway than any other county. I know it. There was probably more land law made there than anywhere else. You would have cases like this where a man has been evicted 30 or 40 years ago, and a man came in and took his land. His grandson might be there now with his family and it would be a grave hardship to make him suffer for his grandfather. I make a present to any Deputies of that argument.

Mr. GOREY: The grabbers breed very rapidly.

Mr. HOGAN: I make another point. There were evicted tenants, sons and grandsons in the various counties—not in Kilkenny who were amongst the very best men in the Irish Volunteers during the last war.

Mr. DAVIN: Not in Kilkenny.

Mr. GOREY: Not in Galway or Leix.

Mr. HOGAN: No. I would like there would be more people like that bred. Before I go from those general statements it would be a grave hardship in a great many cases to put out a man like that, a man whose grandfather had

taken the holding under circumstances which we cannot picture now. There have been cases of genuine grabbing where holdings have been taken under shocking circumstances, but other cases which are rather on the border line we must examine. However, when you are talking about the land question for any reason except business purposes you talk about grabbers. Anyone knows that the twelve Apostles would evict some percentage of the tenants. I do not expect Deputy Gorey will admit that but I am in a position to admit it. Every responsible person knows that there is a small percentage St. Peter would evict. What would happen? A very large percentage of the evicted tenants reinstated in 1903 sold their holdings. You would have a case where a man was evicted 30 or 40 years ago and someone took his holding in circumstances more or less deplorable, and his grandson may be there now. He may be a married man with a family and perhaps as good an Irishman as the next. He would be put out and the evicted tenant brought back from New York and put in. He would probably sell the holding after a while—there have been plenty of cases of that sort—he would sell the holding immediately, and, one of the neighbours of the tenant ejected would buy it, and you would have the unfortunate man bred, born and reared there, in some other holding in the neighbourhood, looking out at his holding which is now not in the hands of the evicted tenant but of some other person who had never any claim upon it. It would be grossly unfair and unjust, and I for one see no case for it. I will not have the amendment at any cost.

Amendment put.

The Dáil divided: Tá, 13; Níl, 29.

Donchadh Ó Guinire.
Seán Ó Luinnín.
Domhnall Ó Mocháin.
Liam de Róiste.
Tomás Mac Eoin.
Seán Ó Ruanaidh.
Aodh Ó Cúilacháin.

Risteárd Mac Liam.
Liam Ó Daimhín.
Seán Ó Laidhín.
Domhnall Ó Broin.
Micheál Ó Dubhghaill.
Domhnall Ó Ceallacháin.

Nil.

Liam T. Mac Cosgair.
 Seán Ó Maolruaigh.
 Séamus Breathnach.
 Pádraig Mac Ualghair.
 Micheál de Duram.
 Pilib Mac Cosgair.
 Domhnall Mac Cárthaigh.
 Liam Ó Briain.
 Gearóid Mac Giobáin.
 Liam Thrift.
 Pádraig Ó hÓgáin.
 Pádraic Ó Máille.
 Seosamh Ó Faoileacháin.
 Seoirse Mac Niocail.
 Fionán Ó Loingsigh.

Séamus Ó Cruadhlaoidh.
 Críostóir Ó Broin.
 Caoimhghin Ó hUigín.
 Próinsias Bullin.
 Séamus Ó Dólaín.
 Próinsias Mac Aonghusa.
 Cathal Ó Seannáin.
 Eamon Ó Dúgáin.
 Peadar Ó hAodha.
 Séamus Ó Murchadha.
 Liam Mac Sioghaird.
 Tomás Ó Doimhnaill.
 Eanáin de Blaghd.
 Uinseann de Faoite.

The amendment was declared lost.

Mr. HOGAN: I move that we now report Progress and ask leave to sit again.

Agreed.

THE DAIL RESUMED.

Progress reported: Committee ordered to sit again to-morrow.

ADJOURNMENT DEBATE.

CAHIRCIVEEN ARRESTS.

AN CEANN COMHAIRLE: Deputy Johnson has given notice that he wished to raise some matter on the adjournment.

Mr. JOHNSON: In reply to a question I put respecting the arrests of two men at Valencia, Co. Kerry, the Minister gave an answer which I think rather discloses a state of things in the mind of the authorities in that district which calls for some attention. I hope I am right in believing that they have gone further than the Minister would approve. The case dealt with is something as follows:—There has been a family dispute, lasting as long as five years over the ownership of a farm.

AN LEAS-CHEANN COMHAIRLE: took the Chair at this stage.

Mr. JOHNSON: The eldest son is not a farmer. Since he was eighteen years of age he has been employed in the Western Union Cable Company and he is now 53. The second son, aged 44, committed the crime of getting married in July, 1918, and that was a grievous offence in that family. The circumstances of the courtship and marriage I know nothing about, but it was such as to give offence to the father, and the father made a will in favour of the elder brother, who had never worked on the farm and

who knows nothing whatever about farming. For five years back no work has been done on the farm and no cattle have been sold off the farm. The quarrel has continued up to date. I am assured that there has been for five years past a regular refusal to ferry cattle from the island to the mainland. There has never been any interference by the R.I.C. or the military during that time, and there has never been a breach of the peace in connection with the dispute. It is important to note these facts. It is a family quarrel and the people of the district, the labouring people at any rate, including the ferrymen, have taken the side of the brother who was the farmer, and who was dispossessed of his expectations. The father died about a year ago and, presumably, the brother with the grievance thought there was his opportunity to press his claim and take advantage of the fact that he was the only farmer in the family. At least he was a farmer, but the ostensible owner, the legal owner, was not a farmer. However, there has been some family quarrel. In the early part of this year—and I take this from the Minister's answer—the son who claimed the land, because he had farmed the land under the father, was arrested and charged with illegally removing cattle from the land of his mother. The Minister says he was allowed out on bail on giving an undertaking not to interfere illegally with the land again. Then the Minister goes on to say: "It is reported that since that date O'Driscoll continued to conspire with others, including James Burke and Jeremiah Murphy, with a view to preventing Mrs. O'Driscoll from using the land or from having her cattle conveyed to and from the mainland. Burke and Murphy

[Mr. Johnson.]

are boatmen plying for hire between Valencia and the mainland; and, while conveying the cattle of others, they refused to convey those of Mrs. O'Driscoll. In consequence of this refusal they were warned that if they persisted they would be arrested and charged with conspiracy. On the 19th ultimo they again refused to convey Mrs. O'Driscoll's cattle, while accepting for conveyance the cattle of other people. They were then arrested and, with John O'Driscoll, were brought before a District Justice who allowed them out on bail on their giving an undertaking that they would not again interfere with Mrs. O'Driscoll in the management of her farm, and on a further undertaking by Burke and Murphy to convey her cattle at the usual charges when required to do so." These ferrymen are unlicensed ferrymen; they own a boat which they use for conveying cattle and passengers to and from the mainland. The contention of the authorities in that area, as described by the Minister's answer, is that they must be obliged under threat of arrest to convey cattle in their boat whether they wished to or not; that they have no option to refuse customers or accept customers; they have no option whether to accept employment or refuse employment by a particular customer or employer. If the Civic Guard say they must, well they must, or be arrested. That strikes me as rather serious and an exhibition of arbitrary power that ought not to be tolerated.

These two ferrymen who have constantly refused for the past five years to convey cattle from this farm were taken into custody by Sergeant Connolly of the Civic Guard, Valencia, and their boats commandeered although they were private property and the ferry an unlicensed one. The cattle were loaded into the boats by the military authorities and ferried across by Commandant Griffin and his men. The two ferrymen were conveyed to Tralee, 50 miles away, and were put into prison. The Minister expanded his reply and stated that the men were charged with conspiracy, and that this refusal to accept employment from Mrs. O'Driscoll, or the refusal to convey Mrs. O'Driscoll's cattle in their boat from the Island to the mainland, was merely a part of the conspiracy. I know nothing about any other activities, and the Minister has given no information as

to any other activities, of these men or of any conspiracy. It is stated that they interfered with the working of the land. I know nothing about that. I take it from the Minister's own answer that they were arrested for refusing to convey cattle belonging to Mrs. O'Driscoll from the Island to the mainland. I believe, and I hope my belief will be justified by the statement the Minister will make, that the Sergeant acted beyond his authority; that it is not the policy of the Ministry to compel people under threat of arrest to work for others for whom they do not wish to work, or to hire out their boats to convey cattle or passengers that they are not prepared to hire their boats to. If these men had interfered with the owner of the farm when taking her cattle to the mainland I could have understood the attitude of the Civic Guard, but why there should be a new policy inaugurated in regard to this domestic quarrel, at this stage, I cannot understand. As I explained it is an old-standing family quarrel. One section of the public sides with one son and another section sides with the other son. The quarrel has continued for five years but these boatmen have never acted as ferrymen for this woman's cattle during that time. The Civic Guard comes along and says, "henceforth you must," and because they refuse they are arrested, taken 50 miles away, and put into prison. They are charged with conspiracy and released, having given an undertaking that they will do what the Civic Guard tells them they must do. I think that requires some explanation, and I hope the Minister will disavow the action of the Civic Guard in that locality, and make it clear that there is no compulsion to be imposed upon a man to work for another man or for another woman, when he does not wish to do so.

MINISTER for HOME AFFAIRS

(Mr. Kevin O'Higgins): Deputy Johnson may make his mind quite easy on this. There is nothing in this case which menaces the right to strike. He asks why after five years a new policy should be inaugurated with regard to this family quarrel. I trust he does not suggest that illegalities, by virtue of the fact that they have continued for five years, acquire a sacrosanctity that raises them above the intervention of the law, or the agents of the law. With regard to this case I want to clear the ground. I do not admit

the Deputy's suggestion, that these two ferrymen were entitled to discriminate between cases of the same kind, solely on the basis of the identity of the owner of particular goods. I do not admit that. I am not joining issue on it at the moment, but I do not admit it and I want to mark that. There is a case on record of a man who simply occasionally hired out a barge, and who was held liable by the courts for damage to goods in transit, through no fault of his own, the basis of the decision being that by long custom and by constantly holding himself and his boat out for hire he had become in law and in fact a common carrier, with all the obligations that that implies. Now, it may well be—I do not state it positively—that these two ferrymen, Burke and Murphy, by virtue of constantly plying between Valencia and the mainland, had become by custom common carriers and are not entitled to discriminate, in the manner they have been discriminating, against Mrs. O'Driscoll.

As I say, that is not the point I am joining issue with the Deputy on, but I want to clear the ground and I want to mark the fact that I do not accept his contention that that discrimination was perfectly lawful. I am afraid that I will have to inflict on the Deputy a certain amount of technicality and it will be a consolation to him to know that he has more or less brought it on himself. I have looked up a definition of criminal conspiracy and I have gone to the highest authority available. I have found that—

“Criminal conspiracy consists in an unlawful combination of two or more persons to do that which is contrary to law, or to cause a public mischief, or to do that which is wrongful and harmful towards another person, or to do a lawful act for an unlawful end, or by unlawful means, or wrongfully to prejudice a third person. The offence is at common law a misdemeanour. The gist of the offence lies not in doing the act, or effecting the purpose for which the conspiracy is formed, nor in attempting to effect such purpose nor inciting others to do so, but in the forming of the scheme or agreement between the parties. The combination to injure a third party without just cause or excuse is a criminal conspiracy, although the wrong intended, if done by one individual, would be a wrong and not a crime. To refrain from

dealing with a person is lawful; but an agreement between several to so refrain and to induce and compel others to so refrain is a criminal conspiracy.”

Mr. JOHNSON: I hope the Farmers' Union is listening.

Mr. O'HIGGINS: The point I really want to stress is this, that these ferrymen were arrested and tried, not for the act of refusal to convey Mrs. O'Driscoll's cattle, but for criminal conspiracy with John O'Driscoll to injure his mother in the conduct of her business, the act of refusal being in itself evidence, and very material evidence, of the offence of conspiracy. The ferrymen were arrested, legally arrested; they were brought before a District Justice; they were remanded on bail, I think on certain conditions. They were arrested and, with John O'Driscoll, were brought before a District Justice who allowed them out on bail on their giving an undertaking that they would not again interfere with Mrs. O'Driscoll in the management of her farm, and on a further undertaking by Burke and Murphy to convey her cattle on the usual charge if required to do so. There was a fair in Cahireiveen on the 19th ultimo; the ferrymen were conveying the cattle of the islanders; they discriminated against Mrs. O'Driscoll and that was held to be material, almost conclusive, evidence of the existence of a conspiracy between these ferrymen and her son John to injure this woman in the conduct of her business. Now, the five years. We all know what the five years have been. It brings us back to 1918. One can well understand that in the situation which existed in this country between 1918 and 1923, the rival authorities, conflicting for jurisdiction in this country, had very much more on their hands than matters of this kind. I regard it as a good sign that a situation has come in which it is possible to deal with the illegalities that have existed for five years. I regard it as a sign that the situation in the country to-day is promising, and possibly, in areas, more normal than it has been at any time for five years. As for the length of time, there is no prescriptive right to crime. The Deputy is mistaken if he thinks that I do not stand over, and stand over very fully, the action of the police in this matter. One point I will yield to him and that is this, that if it were the police who took the boat belonging to these ferrymen to convey

[Mr. O'Higgins.]

Mrs. O'Driscoll's cattle they were exceeding their duty.

Mr. JOHNSON: The military.

Mr. O'HIGGINS: The police and military were mentioned in your question.

Mr. JOHNSON: My information is that the military took the boats. I beg your pardon. The boats were commandeered by Sergt. Connolly but the cattle were loaded by the military and the Guards and ferried across by the commandant and his men.

Mr. O'HIGGINS: The military have certain broad powers and discretion in the existing situation in the country, so broad that the courts do not hold themselves at liberty to enquire into the legality of their acts. If the police, in the first instance, moved in taking the boats from the ferrymen, and themselves convey the cattle from the island to the mainland, they were doing something that exceeded their duty and their jurisdiction. One other point I want to make is with regard to common carriers. If these men have in fact and in law become common carriers they are not entitled to discriminate between the goods of one person and the goods of another. It would be, of course, for the aggrieved person to move against them.

Mr. JOHNSON: In the courts.

Mr. O'HIGGINS: In the courts. I want to say all that I am conceding to the Deputy. Possibly there was an excess of duty if the Civic Guards used the boats themselves to convey Mrs. O'Driscoll's cattle from the island to the mainland. If the military did it is another matter. They have very broad powers in the existing situation in the country, and they have been charged with the restoration of order. If they considered it was part of their duty in the task of restoring order to interfere in the matter, we are not entitled to enquire into the legality of their act. If the Civic Guard did it they were exceeding their duty, and their right. Also I want to yield, on the common carrier point, if that is so that it would be for the aggrieved person to move in the Courts, but I am not standing on that leg. I am standing on this, that the charge on which the two ferrymen

were arrested, and the charge which was formulated against them before the District Justice was the charge of conspiracy. They were not charged with the act of refusing to carry these cattle but with criminal conspiracy and joining with John O'Driscoll to interfere with his mother in the conduct of her business, and the fact of refusal was very clear evidence of conspiracy.

Mr. JOHNSON: I hope the Minister will read a similar definition of sedition.

Mr. FITZGIBBON: I have listened to the statement of Deputy Johnson and it did strike me, knowing nothing of the facts beyond what is stated, that it was fairly clear these men were common carriers, and if so they committed an actionable wrong in refusing to carry the cattle. The persons who did that wrong laid themselves open to a civil suit at the prosecution of the person whom they had aggrieved. It seemed to me from the statement of Deputy Johnson that it turns upon the question whether they had committed any crime. I understood that they had been arrested for refusing to carry the cattle of the woman in question. I do not think they could have been lawfully prosecuted for that, but when the other side of the case was heard it seemed reasonably clear that there was a fair ground for charging them with the criminal offence of conspiracy to injure Mrs. O'Driscoll, and it seems to me there was justification for arresting the men. It seems perfectly clear on the statement of the Minister that they could not have been arrested for the mere offence of refusing to carry a particular person, but the law is quite clear that a common carrier has no right, if he has room in his conveyance, to refuse any passenger or goods tendered to him for conveyance with the ordinary freight that he charges for it. The fact that this ferry was unlicensed does not to me seem to affect the matter at all because it is an arm of the sea, and any person who chooses can ply backwards and forwards for carrying goods and passengers.

Mr. O'BRIEN: The Minister has laid down a very important doctrine in the statement he has made which, as Deputy Johnson has pointed out, simply amounts to this, that a worker may not refuse to work for a particular person or do a particular work for a person.

Mr. O'HIGGINS: Pardon me, if the Deputy would not mind me intervening. There is this exception to the conspiracy code : " but no agreement or combination by two or more persons to do or procure to be done any act in contemplation or furtherance of a trade dispute between employers and workmen is punishable as conspiracy, if such act, committed by one person, would not be punishable as a crime." The Trades Disputes Act definitely marks an exception to the conspiracy code. I was just afraid that the Deputy was about to develop a point that was needless, as that aspect of the

matter is already dealt with in the Trades Disputes Act.

Mr. O'BRIEN: I want to put it to the Minister, would the Trades Disputes Act cover certain railwaymen who refused to carry certain cargoes this time three years? On that occasion, am I not right in saying the Minister and his colleagues applauded their action?

Mr. O'HIGGINS: If the Deputy puts down a question I will endeavour to answer it.

The Dáil adjourned at 9 p.m.

DAIL EIREANN.

DEARDAOIN, 19ADH IÚL, 1923.

(Thursday, 19th July, 1923.)

Cromadh ar obair an lae ar a 3.10 p.m.
Bhí An Ceann Comhairle, Micheál
O hAodha, sa Chathaoir.

GEISTEANNA—QUESTIONS.

[ORAL ANSWERS.]

BUSINESS BEFORE THE ELECTIONS.

DARGHAL FIGES asked the President if he will state which Bills of the list lately provided for Deputies it is intended to introduce before the General Election, which Bills it is intended to drop, and what other Bills, if any, it is intended to introduce.

The PRESIDENT: It is not yet possible (as the Deputy is already aware) to fix the date of the General Election. Until that date has been fixed the question does not arise. It has not been decided to drop any of the Bills in the list.

The following is a complete list of the Bills to be introduced before the elections:

1. Dáil Courts (Winding Up) Bill.
2. Superannuation Bill.
3. Civil Service Commission Bill.
4. Ministries Bill.
5. Army Bill.
6. Civic Guard Bill.
7. Finance (No. 2) Bill.
8. Dye Stuffs Bill.
9. League of Nations Bill.
10. Judiciary Bill.
11. Indemnity Bill.
12. A Bill to regulate the sale of intoxicating liquor.
13. Appropriation Bill.
14. Copyright and Patents Bill.
15. Dáil Bonds Repayment Bill.
16. A Bill to provide for certain resigned and dismissed members of the R.I.C.
17. Arms and Ensign Bill.

Mr. DARRELL FIGGIS: Do I understand correctly that it is proposed to have these Bills introduced in the present session?

The PRESIDENT: The question was, what other Bills, if any, it is intended to introduce, and in response to that question I have read out a list of the Bills which it is proposed to introduce, and that answers the Deputy's question.

BLACKWATER RIVER FLOODING.

SEAN O DUINNIN asked the Minister for Industry and Commerce whether he is aware that the Blackwater River has overflowed its banks in the vicinity of Lombardstown, Co. Cork; that the banks have been damaged, and that the flooded lands are threatened with ruin; to ask that in any relief schemes for demobilised soldiers or unemployed workers that the repair of those river banks be included.

MINISTER for LOCAL GOVERNMENT (Mr. E. Blythe), replying for Minister for Industry and Commerce: This matter has not previously been brought to my attention, and there are no funds at the disposal of the Ministry for undertaking such repair work as is suggested. In the event of any funds being made available to the Ministry for purposes of this kind I will see that the Deputy's suggestion is considered.

Mr. DINNEEN: Will the Minister say whether, in consequence of these banks not being repaired, the owners of land alongside the river are threatening to make reductions in their annuities corresponding to the damage suffered by them from the flooding.

Mr. BLYTHE: I am afraid you will have to ask that question of the Minister for Agriculture.

REINSTATEMENT OF CORK RAILWAYMEN.

TOMAS de NOGLA asked the Minister for Industry and Commerce if he is aware that the Great Southern and Western Railway Company are asking men who joined the R. P. and M. Corps in Cork, when applying for reinstatement to their old positions on the railway, to undergo a medical examination, although General Dalton gave these men an assurance that when position on railways reopened the men might return to same if they wished.

Mr. BLYTHE (for Minister for Industry and Commerce): I am informed by the Great Southern and Western Rail-

way Company that it is its general practice, when re-engaging men who have been off duty for any length of time, to have a medical examination at the Company's expense. From the point of view of the public this appears to be a reasonable safeguard.

Mr. NAGLE: It is not at the Company's expense the examination is held. The Company merely issues railway passes to the men applying for examination. The men applying for examination must go up to Dublin and spend two or three days there—

AN CEANN COMHAIRLE: This is not a question.

Mr. NAGLE: I want to correct the Minister's statement.

AN CEANN COMHAIRLE: It must be done by some other method.

Mr. NAGLE: I would like to ask the Minister is he aware that the statement made by the Company is not entirely true, and if the men must pay their own living expenses when coming to Dublin? These men are drawing unemployment benefit, and they must lose that unemployment benefit when they go out of their native place—Cork City in this instance—when they have to attend this Medical Board. I would also ask the Minister is he aware that a great tribute was paid to these men by the Assistant Minister for Industry and Commerce, Professor Whelehan, on Tuesday evening last, when he said that it was due in a great measure to their efforts that the trains were enabled to run?

AN CEANN COMHAIRLE: The Deputy is making a speech now.

Mr. BLYTHE: I am not personally aware of any of these things.

Mr. NAGLE: I would like to ask the Minister is he aware of the promise made by General Dalton that these men could resume their employment when their Army work was finished?

Mr. BLYTHE: I am not aware of that. I think the Deputy should put down a further question.

HOSPITAL ACCOMMODATION IN GOREY.

RISTEARD MAC FHEORAIS asked the Minister for Local Government if he

is yet in a position to state whether any arrangements have been made to accommodate the sick poor in Gorey in the event of the entire occupation of the present hospital by the Army.

Mr. BLYTHE: It has been decided that neither the hospital building nor the portion of the workhouse at present occupied as residential quarters by the nuns will be taken for occupation by troops.

PRINTING OF CO. LIMERICK REGISTER.

TOMAS MAC EOIN asked the Minister for Local Government whether he is aware that certain parts of the register for County Limerick, which it was feared could not be completed by the 31st July, were taken from the printers by the instructions of an inspector of the Local Government Ministry to be executed elsewhere; whether he is aware that there are other printing establishments in Limerick capable of undertaking the work and completing it by the date named, but which were not approached on the subject; whether similar action has been taken in respect to the register of every other constituency; also, will he state what is the minimum period that must elapse between the date when the register is ready for publication and the date when an election may be held.

Mr. BLYTHE: No part of the copy for the Register for the County of Limerick has been taken away from the local printers. So long as we are satisfied that the work can be completed by the 31st instant it is not intended to do so. If the firm to whom the work has already been given is unable to complete it by the 31st instant arrangements have been made to secure its completion in conjunction with another local firm. In almost every other area the work is rapidly approaching completion.

In any case in which a printer is unable to do the work expeditiously, the balance of the copy he cannot complete is printed elsewhere, so as not to delay the publication of the Register.

There is no minimum period prescribed for the holding of an election after the publication of the Register.

Mr. DARRELL FIGGIS: From that answer, is it to be taken that the Register will be completed in that case and in

[Mr. Darrell Figgis.]
every other case by the 31st of this month?

Mr. BLYTHE: We are making every possible effort to secure that it will be. We cannot say whether we can succeed or not.

LIMERICK TECHNICAL INSTRUCTION OFFICERS.

TOMAS O CONAILL asked the Minister for Local Government whether certain whole-time officers of the Limerick County Borough Technical Instruction Committee were removed from office in September, 1919, for reasons other than incapacity or misconduct, under circumstances over which the officers had no control; whether they were awarded pensions and gratuities under Sealed Order of the Local Government Board in accordance with the provisions of Section 8 of the Local Government (Ireland) Act, 1919; whether their rights to such pensions were challenged in the Courts, and finally confirmed by judgment of the Court of Appeal; whether these officers are to be paid the pensions and gratuities so determined, and what arrangements, if any, are being made for that purpose, considering that nearly four years have elapsed since the awards were made.

Mr. BLYTHE: The Government has no liability in this matter.

I understand these officers resigned with the permission of the former Local Government Board under Section 8 of the Local Government Act, 1919, following upon a dispute concerning the administration of the Limerick County Borough Technical Instruction Scheme. Subsequently they applied to be granted allowances for loss of office. The Limerick Corporation refused their claims, and later their cases were decided on appeal to the former Local Government Board. The allowances so awarded were fixed at the maximum two-thirds rate, an equivalent of 40 years' service, when in only one instance did the actual service rendered reach 20 years. The Board's decision was at the time challenged by the Corporation in the Law Courts, and was confirmed as stated.

These cases are at present under consideration, and *ex gratia* advances in respect of the pensions and gratuities awarded are being made without prejudice from the Government Funds.

Mr. O'CONNELL: Has the Government any liability to see that the provisions of an Act which is still the law of the land, and is not repealed, should be carried out?

Mr. BLYTHE: The proper way to do that is for the parties who have claims to bring the necessary legal proceedings.

A TRIM PRISONER.

CATHAL O SEANAIN asked the Minister for Defence whether Thomas Creighton, D.C., Emmet Street, Trim, was arrested on June 4th and tried by Military Court on June 18th for having possession of a revolver; what was the decision of the Court, and whether this decision has been confirmed; further, whether the Minister is aware that four witnesses who were called to the Court testified that Creighton was not in possession of a revolver at the time and place alleged; and whether, in view of this testimony, the Minister will cause the release of this prisoner.

Mr. BLYTHE (for Minister for Defence): Mr. Creighton was tried for having possession of a revolver illegally. He was found "Not guilty," and was released on the 18th instant.

DAIL EIREANN COURTS (WINDING UP) BILL, 1923.—FIRST STAGE.

MINISTER for HOME AFFAIRS (Mr. Kevin O'Higgins): I ask the leave of the Dáil to have printed and circulated a Bill dealing with the final disposition of the affairs of the Courts set up by the Second Dáil and by the First Dáil. The Bill asks for the necessary statutory powers to wind up the business of the late Courts, and provision is made therein for the completion of the cases that were pending at the date of the abolition of these Courts, the hearing of appeals which were pending at that date, the registration and enforcement of decrees given by these Courts, the review of such decrees and whose correctness is questioned, and other matters arising out of the final winding up of the Courts.

I imagine that the main criticism of the Bill will be that it ought to have been introduced long since. We would have wished to introduce it many months ago, and we are aware that hardships did occur here and there owing to its non-introduction; but in the circumstances of

the time it was necessary to have a sense of proportion, and to deal first with the more important and more urgent matters. I move for leave to introduce the Bill.

Mr. BLYTHE: I second the motion.

Motion put and agreed to.

Second Reading ordered for Tuesday, July 24th.

LAND BILL, 1923.

AN CEANN COMHAIRLE: In accordance with the motion passed yesterday, the Dáil went into Committee on the sections which it is proposed to amend. Progress was reported. The Dáil will accordingly go into Committee.

DAIL IN COMMITTEE.

Mr. DUGGAN: I beg to move the following amendment:—

In Section 34, page 14, line 65, after the word "Commission" to insert the words "under this Act," and to delete the word "compulsorily," lines 65 and 66, and in line 66 to delete the words "be extended" and to substitute therefor the word "extend," and in line 67 after the word "bog" to insert the words "for the purpose of providing turbary for the occupiers of land in the neighbourhood thereof," and to delete the word "same," line 67, and to substitute therefor the words "said bog."

It merely alters the wording; it does not alter the sense of the section.

Mr. JOHNSON: The lay mind reads this in such a way as to suggest it does alter the meaning. It seems to me to be a weakening of the original proposal. The original section says: "The powers of the Land Commission to acquire compulsorily any untenanted land shall be extended to include power so as to acquire any bog, whether the same is or is not subject to any right of turbary of other persons than the owner."

Now, the amendment seeks to alter it so that it will read, "The powers of the Land Commission under this Act to acquire untenanted land shall extend to include powers so as to acquire any bog." I do not know what the exact meaning of the word "extend" may be, but if there is no reason for the alteration; it seems to me to raise a doubt as to whether the powers of the Land Commission

would be to acquire bog compulsorily, whereas the original form made it quite clear that these powers should be extended so as to include powers to acquire any bog. By altering the wording it seems to suggest to me that the powers will be only to acquire bog for purely local fuel purposes, and only at an agreed price. As originally drawn, I rather thought that there would be powers to acquire bog for other than local fuel purposes. I do not know whether it is deliberate on the part of the Minister to make that change in the purpose, and, if there is no change in purpose, but merely a change in language, I suggest that some more justification should be given as to the reason for the change. Is it that it was not clear in the original form, or is there in fact a change in purpose and intention?

MINISTER for AGRICULTURE

(Mr. Hogan): There is no change in intention. The word "compulsorily" is left out deliberately because it is reminiscent of the Acts of 1903 and 1909. It is possible that if the wording of this section was left as it was, and if the word "compulsorily" remained, it might be then held that the bog would be acquired compulsorily under the terms of the previous Acts and paid for in cash. This is only an amending Act. There were compulsory powers to buy in the 1909 Act. It is possible that the Judge might decide that a purchase under that section would have to be paid for in cash, whereas we want to ensure that the payment should be in bonds. We make it clear that the Land Commission have power to take bog compulsorily by making the section read: "power of the Land Commission under this Act to acquire any untenanted land." They have power to acquire untenanted land compulsorily. I was going to suggest to leave out the word "extend."

Mr. JOHNSON: Exactly.

Mr. HOGAN: It is unnecessary. "Shall include power to acquire any bog," etc. That makes it absolutely clear that we have power to acquire turbary compulsorily as we have power to acquire untenanted land, and it makes it clear that payment is to be made in bond.

Mr. JOHNSON: Is there any necessity to include the words "for the purpose of

[Mr. Johnson.]
acquiring turbary"? That is a limitation, I think, and I would be rather inclined to argue that it is a weakening of the clause to put in that sentence.

Mr. HOGAN: In practice there is nothing in that sentence. It is a description of the purposes for which you require it. If we left it "to acquire any bog" it would be rather a peculiar way to draft a compulsory section. You always set out the purpose for which you want it. It is mostly a descriptive clause and in practice it does not in any way limit the power of the Land Commission to acquire turbary. They will only acquire it for persons living, say, seven or eight miles away, and their discretion as to whether a man is living in the neighbourhood or not is very extensive.

Mr. JOHNSON: Supposing in the course of inquiries into the utilisation of peat it were found possible to utilise a bog even in a small area more efficiently than the present method, then could the powers be held to extend to that bog?

Mr. HOGAN: I would say not. If some company wanted to acquire a large area of bog for the purpose of manufacturing peat by machine methods, I doubt if they could take it compulsorily under this Act. You can only take turbary, as you take land, compulsorily for the purpose of division. The Land Commission will have, especially in congested areas, large areas of bog on their hands, and when they are taking up bog they will take larger areas than they require. If they do not take up a particular area, and persons want it for experiments, I do not think that they could take it compulsorily, and I do not think that it was ever intended that they could.

Mr. JOHNSON: The point I am making is that you are not looking ahead, and you are rather limiting the powers unnecessarily of the Land Commission in respect of bog. If there were new methods found for utilising bog, not necessarily the extensive schemes the Minister spoke of, but even small schemes, the powers you are now taking are limited unnecessarily. You are closing the door without any necessity for closing it. If that sentence were deleted, it seems to me the protection would be quite sufficient, and a possibility of utilising bog by new methods will then be available under this scheme.

Mr. HOGAN: I doubt very much that even if that clause were left out it would make any difference. Under the Bill as it stands the Land Commission have only power to acquire turbary compulsorily for dividing it amongst tenants and landless men. The Land Commission will have on hands large areas of bog as the result of the operations of this Act. They will take up practically all the bog in the province of Connaught automatically. It will vest in them as untenanted land. They will thus have very large areas of bogs on hand with no particular use for them. The same will apply to a lesser extent to areas outside that. When they buy bog they will have a lot over. The only way it can be limited is in the case where someone is looking for a particular area of bog which is not taken up, and he comes to the Land Commission asking them to acquire this compulsorily, at the same time saying that he wants it for the purpose of a small or a big experiment. The Land Commission cannot take it compulsorily. If you left out those words even they could not take it. Further, would it be the right way to do it? We are going a long way to meet people who are experimenting in turbary by keeping all this bog on hands. Would it be right to give the Land Commission power to take compulsorily a bog for purposes which have nothing to do with the relief of congestion or land purchase, especially in view of the fact that we are interfering with the rights of turbary of third persons in the bog? If the Deputy will read the section, "the powers of the Land Commission to acquire compulsorily any untenanted land shall be extended to include power so to acquire any bog whether the same is or is not subject to any right of turbary of other persons than the owner, and whether or not an advance under the Land Purchase Acts has been made for the purchase of lands including such bog, and, if made, whether redeemed or not." We are interfering with the existing rights of turbary, and it would hardly be fair not only to take bog for the relief of congestion from people using it, but to take it for experimental purposes, especially in view of the fact that in practice there will be no difficulty about it, as the Land Commission will have far more bog on hands than they will require.

AN CEANN COMHAIRLE: Will the amendment remain as it is on the paper?

Mr. HOGAN: It is not quite the same. I have an amendment here.

AN CEANN COMHAIRLE: The Minister's amendment is the same except that in line 66 the words "be extended to," are deleted, and nothing substituted. The amendment now reads:—"In Section 34, page 14, line 65, after the word 'Commission' to insert the words 'under this Act,' and to delete the word 'compulsorily,' lines 65 and 66. In line 66, after the word 'shall,' delete the words 'be extended to,' and in line 67 after the word 'bog' to insert the words 'for the purpose of providing turbarry for the occupiers of land in the neighbourhood thereof,' and to delete the word 'same,' line 67, and to substitute therefor the words 'said bog.'" I take it leave is given to amend the amendment.

Agreed.

Amendment as amended put and agreed to.

Question: "That Section 34 as amended stand part of the Bill," put and agreed to.

Mr. MILROY: I beg to move to insert a new section before Section 35, page 15:

"Where a parcel of untenanted land situate in a non-congested districts county is held under a fee-farm grant, lease for lives or years renewable for ever, or lease for a term of years of which 60 or more are unexpired at the date of the passing of this Act, and the proprietor of the parcel applies in the prescribed manner to the Land Commission for an advance for the purpose of redeeming the rent created or reserved by the fee-farm grant or lease, or such proportionate part thereof as may be payable in respect of the parcel, the Judicial Commissioner shall, after hearing all persons concerned, apportion the rent if such apportionment shall be necessary and any superior rent, and order the redemption of the rent or the apportioned part thereof as the case may be, and all interests superior thereto, and fix the redemption price thereof. The redemption price so fixed together with such costs as may be allowed by the Judicial Commissioner shall be advanced and paid by means of $4\frac{1}{2}$ per cent. Land Bonds and

distributed by the Judicial Commissioner as if the redemption price of the rent were purchase money of land vested in the Land Commission under this Act, and the amount advanced shall be repayable by the proprietor of the parcel by means of an annuity (charged on the parcel and recoverable in like manner as a purchase annuity) calculated at the rate of $4\frac{1}{2}$ per cent. on the amount of the advance, and where the parcel is held under a lease the proprietor shall acquire and have an estate in fee-simple therein instead of the term created by the lease."

This amendment is a very long one, but I think it is also self-explanatory.

Mr. JOHNSON: No, I do not understand it.

Mr. MILROY: Let me hope the Deputy will before the discussion on it is finished. The proposed new section may be divided broadly into two parts—one its purpose, and the other the procedure to accomplish its purpose. This new section proposes to deal with a special species of tenure which is largely located in the Northern Counties of this State. The object of the proposed section and the procedure by which that object shall be achieved are clearly outlined, and I think require no further elucidation from me.

Mr. GOREY: This new Section fairly carries out the promise made by the Minister for Agriculture during the Committee Stage. It also carries out our intention and wishes.

Amendment put and agreed to.

Question: "That the new section be added to the Bill before Section 35," put and agreed to.

Mr. SEAN MILROY: I beg to move to insert a further new section before Section 35, as follows:—

"Where a holding has at any time been vested in a purchaser under the Land Purchase Acts subject to a superior interest or charge the Judicial Commissioner shall on the application of the proprietor, after hearing all persons concerned, order the redemption of the said interest or charge and all interests superior to them and fix the redemption price thereof. The redemption price so fixed together with such costs as may be allowed by the Judicial Commissioner shall, notwithstanding the provisions contained

[Mr. Milroy.]

in sub-section (4) of Section 9 of the Purchase of Land (Ireland) Act, 1891, be advanced and paid by means of $4\frac{1}{2}$ per cent. Land Bonds and distributed by the Judicial Commissioner as if the redemption price were the purchase money of land vested in the Land Commission under this Act. The advance shall be repayable by the proprietor of the holding by means of an annuity calculated at the rate of $4\frac{1}{2}$ per cent. on the amount of the advance, and the said annuity shall be consolidated so far as circumstances permit with the existing purchase annuity (if any) to which the holding is subject, and shall be recoverable in like manner as a purchase annuity."

This section also deals with the redemption of certain interests. Probably the Farmers' Party and those acquainted with the subject are aware that many holdings were vested in some superior interests at the time of purchase, and this clause proposes to redeem these superior interests. It follows on the same lines as the previous clause. The object is indicated in the first part, and the procedure by which it is carried out is indicated in the second part.

Mr. GOREY: This Clause also meets our view.

Mr. WILSON: I would like to know, from the Minister, is it in this section he proposes to deal with those companies of purchasers who got advances from the banks other than from the National Land Bank which he provides in the Bill. I would like to know if this is the section in which he means to deal with these particular purchasers, and why was it necessary to introduce a new section into the Bill for the National Land Bank people?

Mr. HOGAN: How can it be in this section? This section deals with the redemption of head rents. We will come to the other question the Deputy raises at a later stage, and I will deal with it then. I suggest a slight change in this section, with the leave of the Dáil. The last paragraph reads: "The advance shall be repayable by the proprietor of the holding by means of an annuity calculated at the rate of $4\frac{1}{2}$ per cent. on the amount of the advance, and the said annuity shall be consolidated, so far as circumstances permit, with the existing purchase annuity (if any) to which the

holding is subject, and shall be recoverable in like manner as a purchase annuity."

I propose to delete the words "shall be consolidated, so far as circumstances permit, with the existing purchase annuity (if any) to which the holding is subject, and." There is an objection to consolidating the two annuities. This section deals with purchases under the Ashbourne Act. Only the interest of the occupying landlord was purchased; superior interests were not purchased, and it aims at redeeming the superior interests. Now, the annuities payable under the Ashbourne Act would not be paid into the same account as the annuities payable under this Act and in respect of these redemptions. Hence there would be a very serious book-keeping objection to consolidating them. There can be no particular objection to a particular farmer paying with two receivable orders instead of one.

Mr. GOREY: We agree to that.

Amendment put and agreed to.

Question: "That the new clause, as amended, be added to the Bill," put and agreed to.

Professor THRIFT: I beg to move the following amendment, which is down in the name of Deputy FitzGibbon:—In page 15, to add after Section 35 (7) a new sub-section as follows.—

"Where in the case of the sale of any land an agent has been employed in the management of the estate comprising the land sold, such sum as may be sanctioned by the Land Commission may with the consent of the owner of the land be paid to the agent in Land Bonds out of the purchase money on his ceasing to act as such agent."

Deputy FitzGibbon has asked me to move this amendment, which stands in his name. I do not think the amendment will require very much to commend it to the Dáil or to the Minister for Agriculture. It is not an amendment which confers any rights, but merely allows, with various consents, the Land Commission to pay the land agents something in Land Bonds for the loss of the positions which they have held hitherto. The amendment is purely permissive, and allows the land agents something in Land Bonds for the loss of their work, provided there is the consent of the landowners and others concerned.

Mr. GOREY: And provided the land agents themselves consent to receive this.

Mr. T. J. O'CONNELL: Perhaps Deputy Thrift would tell us why it is necessary to put this amendment into the Land Bill. The landlord, having disposed of his property, and having received his price, will necessarily have to make arrangements to pay off all his hands, land agent as well as others. I suggest that this should be a purely private arrangement between the landlord and his employees, and I do not see why an amendment of this kind should be put into the Land Bill. I would like to have some more information on the matter from Deputy Thrift.

Professor THRIFT: I do not know very much about the law on the matter but the amendment proposes to give power to the Land Commission to transfer part of the Land Bonds to the agent out of the purchase money which would come to the landowner. The payment will be made direct, and not through the landowner. I understand there is a legal necessity for this: otherwise Deputy FitzGibbon would not have put down the amendment. I cannot speak on the legal aspect of the case, but perhaps the Minister for Agriculture would say whether the amendment is necessary or not.

Mr. JOHNSON: Is the purpose to save transfer fees? I take it these bonds are marketable, and that there will be some fees to pay on the transfer, but if the Land Commission is going to hand these Land Bonds over to a third party, with the consent of the landowner and the agent, there are, I understand, some Stock Exchange and Finance Minister's charges avoided. It occurs to me if that is the only reason for the amendment, that it might be accepted. After all, the average agent does not come under the unemployment insurance, and, being deprived of his unemployment benefit from the State, he might well be allowed to take something from the landlord. While it is true, perhaps, to say that in most cases the agents have been worse than the landlords, still people are saying now "Let bygones be bygones," and perhaps the landlord may be allowed to make a gift to his agent for having borne the sins that he himself should have been responsible for.

Mr. HOGAN: I accept this amendment. If the landowners and the agents, who are mainly the parties interested—it costs the State nothing—think that these Land Bonds should be given to the agents, I do not see why we should stop them. The arrangement simply proposes to pay certain fees to the agents out of the purchase money. The State is putting up no money. The arrangement apparently suits all the parties interested, and I do not see why we should try to stop it. I do not think we should take up a dog-in-the-manger attitude in the matter.

Mr. GOREY: I do not see why we should. I think it is a matter that we ought to commend. Personally I have no objection to the landowners giving away Land Bonds, even to the extent of putting them in the Liffey, if they so choose. I desire to say that I appreciate the kindly feeling that prompts this, the kindly feeling of the landowners in giving compensation to their agents, who were, I suppose, very efficient servants in their time. As a matter of fact, the landowners seem to be putting the agents on the same level as public servants, and are treating them accordingly. I hope they will do the same with their herds and with other workpeople who, up to this, have been engaged in the management of their property for them. I would have no objection even if they were to compensate them out of the bulk of the arrears. It does not matter very much to the land agents where the compensation comes from, whether it is out of the bulk of the arrears or in Land Bonds, so long as they get it. I think the landowners ought to be congratulated for the kindly feeling which this amendment reflects towards their land agents, and I think the Government and the Minister for Agriculture ought to be congratulated in providing them with the money to do that.

Mr. HOGAN: It is the farmers who are doing that.

Mr. GOREY: Yes, the farmers are doing it, driven by the Government. This money is provided either by the tenant in direct payment or by the State in a bonus. In any case the Government ought to be congratulated on putting the landowners in the happy position of being able to give away a slice of their bonds in cases like these. Of course, it is more

[Mr. Gorey.] commendable from the fact that most of the land agents throughout the country are solicitors.

Mr. HOGAN: Exactly.

Mr. GOREY: That circumstance makes it all the happier. We know as a matter of fact that 90 per cent. of the agents are solicitors.

Mr. HOGAN: Very good agents they make.

Mr. GOREY: The landlords are very generous, or perhaps they are very loyal in carrying out their part of the bargain. No doubt there was an understanding between them and the agents, and perhaps others, in putting this through. I know there was an understanding between them with reference to the previous Acts, under which the bonus compensated the agents for the loss of their employment. This will be a nice thing coming into the offices of our leading solicitors throughout the country who are not dependent upon this means of living. It will make them comfortable for ever. I think the landlords and the Government and everybody concerned ought to be congratulated. I do not think we ought to stand in the way at all. The State is very kindly providing the money out of public funds and out of the sweat of the unfortunate occupiers of the soil. We were told about mortgage and other charges, but we never heard of the pensions provisions that were contemplated. We did not know that this was supposed to be one of the landlord's outgoing. I am sorry we did not hear about it. We would be more kindly disposed had we heard about this. Anyway we wish them joy.

Professor THRIFT: It is very refreshing to hear nice things said about landlords, but I am not at all sure that they can exactly take all the nice things which Deputy Gorey has said. There is no objection to the amendment, therefore I am not going to waste time talking about it. It merely does say that, with the consent of the landowner, these Land Bonds may be handed over to the agent. I would say that it is rather a land agents' amendment than a landlords' amendment.

Amendment put and agreed to.

Section 35, as amended, put and agreed to.

Mr. GOREY: I beg to move:—

To insert before Section 38, page 16, a new section as follows:—"The Land Commission shall have power to provide a suitable right of way or means of access to any property vested in or by them under this Act or any previous Act, subject to the payment by them of reasonable compensation in respect of any land acquired by them for this purpose."

This is an amendment which I hope will be of great value to the Land Commission and which is very necessary. We know that in the past many Petty Sessions cases arose out of the fact that there was a great lack of agreement about rights of way on lands and such things, and the impossibility in many cases of getting from one place to another. I have put forward this amendment really to convenience the Land Commission and do away with this fruitful source of litigation. The amendment provides that the Land Commission be empowered to compulsorily acquire suitable rights of way or means of access to any property vested in them or by them under this Act or any previous Act, subject to the payment by them of reasonable compensation in respect of any land acquired by them for this purpose. I hope the amendment will appeal to the Minister. It is one that will make for happy relations between neighbours, and will do away with a lot of legal contention. I think it is absolutely essential in many cases. I know of one or two cases in particular where there is not a right of way in certain places, and where they have no right to cart machinery and manure. I think this amendment will enable the Land Commission to set these things right.

Mr. HOGAN: The Land Commission already have the powers sought to be given to them. They have absolute powers to take rights of way over untenanted land and to retain tenanted holdings until they get whatever rights of way are necessary. They never vest a holding until they have acquired whatever rights of way they thought necessary. They have these powers already.

Mr. GOREY: I know they have not exercised them under previous Acts.

Mr. HOGAN: They have ample powers both under this Bill and previous Acts.

We all want to vest them with these powers, but there is no occasion to do it twice.

Mr. GOREY: If you do not think you need them, it is all right.

Mr. JOHNSON: I think it is desirable that the statement of the Minister should be made widely known, because I have had several requests to bring this question to the notice of the Dáil in view of the inability of small holders in the cases I have in mind to get access to roads in any convenient way. Some rather extraordinary obstacles have been placed in the way in one or two cases. If the Land Commission have these powers, then there is obviously no need to put them in again in this Bill, but what the Minister has stated ought to be made widely known.

Mr. HOGAN: The position is that if they take up tenanted land under this Bill, they retain the holdings until they get such rights of way as they require. If they take up untenanted land, the field is clear, and they can map out any rights of way necessary. They could not go back on the land purchased under the 1903 Act and change a right of way over the land. They have nothing to do with that; but, as far as they are dealing with land, they have absolute and complete power of control over all rights of way and new rights of way.

Mr. GOREY: That is the reason I wanted to give them power under this Bill to deal with previous Acts. I have in my mind a few cases on the Shannon where land was reclaimed from the river marsh land—to which there is no right of way, and where it is necessary one should be provided. I do not think it would do any harm, or that the ink to print the amendment will be wasted. I think you might accept this amendment and make it definite, not only under this Bill, but under all previous Acts.

Mr. O'CONNELL: I think the amendment gives more power than the Land Commission have, and I gathered as much from the Minister's answer when he stated that it would not be possible to go back now on what was done under other Acts. It might be necessary now to ensure that the Land Commission shall have power to obtain rights of way over holdings purchased under other Acts. For

that reason I think the amendment should be accepted, as it certainly enlarges the powers of the Land Commission.

Mr. HOGAN: I do not care to accept this amendment offhand, as I do not like the drafting. Possibly we may go back on it.

AN CEANN COMHAIRLE: If we are going to take the Report Stage immediately after this Committee Stage, we would want to have the new amendment this evening.

Mr. HOGAN: I will have one drafted this evening.

Mr. GOREY: I am agreeable to any form of wording that will carry out the intention of the Amendment.

AN CEANN COMHAIRLE: The suggestion is to withdraw the Amendment and consider a substituted one from the Minister on Report.

Amendment, by leave, withdrawn.

Mr. McGOLDRICK: I move:—

In Section 38, page 16, to delete Sub-section (1) and to substitute therefor the following Sub-section:—

(1) Where it appears to the Judicial Commissioner that prior to the appointed day a landlord, or in the case of untenanted land, an owner, has been liable for the cleansing or maintenance in whole or in part of any watercourse, drain, embankment or other work, either alone or in conjunction with other persons, and whether under the terms of a contract of tenancy or otherwise, he may direct that out of the Land Bonds representing the purchase money there shall be transferred and applied in manner hereinafter provided Land Bonds sufficient to yield such income as in his opinion will be required for the future cleansing and maintenance of such watercourse, drain, embankment or other work, in accordance with the liability as ascertained by him of the former landlord or owner.

This Amendment is to cover cases that were put forward during the discussion that took place in the Committee Stage dealing with embankments and watercourses. It covers that class of work fairly comprehensively. I do not see that there is any common obligation laid on the landlord towards works that were of

[Mr. McGoldrick.]
 general utility and of necessity to tenants. The Amendment gives the Land Commission power to make provision for watercourses, drains, and numerous other things, serving a large area, and to take from the landlord in Land Bonds a sufficient sum to yield what will pay for work that the landlord is now being exempted from. It is the duty of the Land Commission to see that the Bonds are held, and that the community will not suffer by the change of ownership.

Mr. GOREY: I think this Amendment meets our view. We drew attention to this matter on the First Reading. There was a period of ten years mentioned, but that is removed by this amendment. The Land Commission, I think, will now have sufficient power to make things right.

Mr. O'CONNELL: The Amendment meets the objection I raised when the Bill was previously before the Dáil, that is, that landlords who were in the habit of paying for this work should continue to pay. The amendment provides that any owner who was liable for the cleansing of a watercourse, whether he did the work or not, will have to pay.

Amendment put and agreed to.

Mr. DUGGAN: I move:—

In Section 38 (5), page 16, lines 61 and 62, to delete the words "a sum to be advanced by the Minister for Finance at their request," and to substitute therefor the words "such sum as at their request the Minister for Finance shall approve of and advance."
 This is merely an alteration in wording.

Amendment put and agreed to.

Section 38 as amended put and agreed to.

PADRAIC O MAILLE: I move:

To add to Section 39, page 17, a new sub-section as follows:—

(5) On the vesting of any land under this Act the exclusive right of mining and taking minerals and digging and searching for minerals on or under that land including such mineral rights as may be superior interests shall vest in Saorstát Éireann:

Provided that this sub-section shall not apply

(a) to any mine or quarry which is being worked or developed by the owner on the appointed day,

(b) to any stone, gravel, sand or clay.
 Provided also that where any such rights vested in Saorstát Éireann under this sub-section are at any time hereafter let leased or sold the person who would have been entitled thereto if they had not so vested shall be entitled to receive 25 per cent. of any rent purchase money or any other net profit received in respect of the same unless his interest shall have been purchased in the meantime by Saorstát Éireann.

Mr. DARRELL FIGGIS: Before the Minister replies to the amendment, which is clearly an official amendment, I would like to ask him if the amendment as moved does fully cover the rights that are predicted in Article 11 of the Constitution?

Mr. HOGAN: Yes, it does.

Mr. DARRELL FIGGIS: Because it says here that "all these minerals, or rights of mining and taking minerals, digging and searching for minerals, are vested hereafter in Saorstát Éireann," and it adds a proviso that this section shall not apply to any mine or quarry that is being worked or developed by the owner on the appointed day. But under Article 11 of the Constitution there is a still further proviso which, presumably, being in the Constitution, governs this. It is not expressly stated in the amendment, and there might, with clarity, be included in the amendment a statement that such vesting shall be subject to the trusts, grants, leases or concessions. It might quite argueably prove to be the case that a farmer might not himself be mining, but he might have granted certain leases and concessions, which are not dealt with in the amendment, although they are implied in the Constitution, and in order to make the amendment square with the Constitution I think an addition of such words would be to the advantage of the amendment.

Mr. HOGAN: Well, of course, the word "owner" there would be construed to be the person who had the lease.

Mr. DARRELL FIGGIS: Would it?

Mr. HOGAN: Yes. These are the words of the previous Acts.

Mr. JOHNSON: I am opposed to the second proviso, because it seems to me that there are no grounds for paying anything for minerals which are not worked

or developed and probably have not been known to exist, and why the owner should be entitled to receive 25 per cent. compensation for things that he did not know existed, or, if he did know they existed, has not made any use of them, passes my understanding. It seems to me to be throwing a gift into the air unnecessarily, and I will ask the Deputy to justify the second proviso if he can.

Mr. HOGAN: I think that the second proviso can be easily justified. We are taking up this land compulsorily, and the owner would not part with it but for that fact. We do it on a wholesale scale, and we are giving him no option. If we happened afterwards to find a gold mine in an area of untenanted land which we have taken up, it is only fair that the owner who had to part with the land at fifteen years' purchase should get something. That is only equitable and just. It would be a different thing if we were buying the land voluntarily, but here we are taking up all untenanted land compulsorily, and taking it up at a price which no one pretends has anything to do with the value of any minerals in it. I think that is an answer to that.

Mr. JOHNSON: The explanation makes it clear, I think, that the Dáil should oppose this proviso. I take it that it is in order to move the deletion of the second proviso, and I therefore beg to move it. I take the view quite definitely that land which has gold under the surface, which has been lying there unworked, such land having been purchased even compulsorily does not justify the State in paying this 25 per cent. to the landlord. He is not losing anything. We are compensating him for the loss of property which he did not know he possessed. He cannot be said to have purchased the estate in the belief that there was gold there, or copper, or any other mineral; and if he did, and held it out of use, knowing that there was mineral wealth there, he should pay compensation to the State for not having used it, knowing it was there. Certainly no compensation should be paid to him because you have taken from him that which he was making no use of, either for himself or anybody else. The proposal is unfortunate. I think we were told, in one of the discussions, that it is agricultural land we were dealing with, and the landlords'

rights, at least the landlords' rentals, were being purchased.

Mr. HOGAN: Untenanted land.

Mr. JOHNSON: Yes, I beg your pardon. We are dealing with untenanted land in this, but, nevertheless, it is agricultural land, and the fact that these minerals are not being worked, and have not been worked, seems to me to take away any claim in justice or equity, or even any claim upon generosity, that the landlord may have for any compensation for those unworked minerals. As is more likely still, the existence of those minerals might not be known at all to the landlord, but we are to compensate him for their loss. That is over-generous, and I think that no claim for any such compensation could be justified, and ought not to be asked for, and I urge the Dáil to delete this second proviso in this new sub-section.

AN CEANN COMHAIRLE: Deputy O'Maille has proposed a new sub-section, and Deputy Johnson has proposed to amend the proposed new sub-section by deleting this second proviso. "Provided also that where any such rights vested in Saorstát Éireann under this sub-section are at any time hereafter let, leased, or sold, the person who would have been entitled thereto if they had not so vested shall be entitled to receive 25 per cent. of any rent, purchase money, or any other net profit received in respect of the same unless his interest shall have been purchased in the meantime by Saorstát Éireann."

Mr. McGOLDRICK: I am not very much concerned with the amended amendment proposed by Deputy Johnson, but I wish to ask the Minister a question as to how iron ore stands. This question of iron ore is a very important one.

AN CEANN COMHAIRLE: We must first dispose of this amendment to delete the proviso.

Mr. McGOLDRICK: With regard to the amended amendment by Deputy Johnson, it does seem that the co-operation of the party from whom the land would be taken would be a valuable asset. I think it is only fair that the person whose land had been leased or sold should be entitled to the 25 per cent.

Mr. DARRELL FIGGIS: With regard to the amendment proposed by Deputy Johnson, I am pretty certain what the effect of the amendment would be, but to this extent I am in doubt, that I am not quite certain of what the exact meaning of the words proposed to be deleted are. Let me take a hypothetical case. Here is a parcel of untenanted land that becomes vested in Saorstát Éireann. At some future date there may be a considerable deal further on, and in time valuable mineral properties are discovered in that land. Supposing at that time Saorstát Éireann should decide not to sell that land. What I am putting is, that if at some future time the State decides not to sell that land but to lease it, which is a practicable course to adopt, and which, if its own geological surveys prove valuable properties to exist there it would be very well advised to adopt. In that case, is it to be the effect of this amendment that the person who owns land at the moment and suspects no mineral virtue or value to be contained in, is he to get 25 per cent. of the profit of the working of these minerals hereafter? If it be the case that you have a large profit, a deduction of 25 per cent. from that would mean that the venture would still be worth working, but if the net profit was small the reduction of 25 per cent. might prove it was not an economical proposition. Therefore, by binding the future in this way the State and the national wealth may be injured, and I urge that the whole of this might be considered. As the matter now stands I am prepared to vote for the adoption of the amendment by Deputy Johnson, because this second proviso unnecessarily binds the future, and may prove of injury to the industrial development of the resources of this country.

Mr. GOREY: Am I to understand that the object of the amendment is to do away with all the interests of the owners absolutely? If not, what is it then? Some of the people who have purchased under previous Acts got minerals, and some were retained by the landlords, and others were vested in the State, according to the voluntary agreements they made. I would like to know how far the amendment proposes to go with regard to this amendment. Are the people who actually owned the land to get nothing at all?

Are the people who are actually in

possession to get nothing at all? Twenty-five per cent. seems to me to be a small amount; it is little enough, too little to my mind. To cut away that twenty-five per cent. altogether seems to be going a little too far. Perhaps the Minister's word "confiscation" would apply here.

Mr. HOGAN: I have nothing further to add to what I said before. The reason we provided twenty-five per cent. for the owner is quite clear. We are taking the land compulsorily; we are taking it on a wholesale scale. If gold, coal, or iron were subsequently discovered underneath it, the least we might do is to compensate the owner. With regard to Deputy Figgis's point about twenty-five per cent. out of the net profits, if there were any profits at all, it would not be possible to take twenty-five per cent.

Mr. DARRELL FIGGIS: I saw the misapprehension my first words created, and I showed exactly how from a business point of view, what I said stated is correct. If it were yielding a net profit of twenty-five per cent. it could afford to pay twenty-five per cent., and would still be an economic proposition, but if with a deduction of one-quarter the net profit were not more than five or seven, it might still be an economic proposition, but with the deduction of twenty-five per cent. it would cease to be. To fix an arbitrary twenty-five per cent. in advance is not economically wise if the mineral resources of this country are to be developed, because the margin of profit available for the working of a large number of them must necessarily be very small, indeed.

Mr. WILSON: In the case of the four hundred tenant proprietors who hold in fee, subject to an annuity, and who have now untenanted land, if the Land Commission seizes their land for sub-division, will this suggestion not apply to them as well as to the landlords? I take it that where the Land Commission seizes the tenant proprietors' land for the purpose of relieving congestion, the particular man who holds in fee, subject to an annuity, would be similarly in the position of getting this twenty-five per cent.

Mr. HOGAN: He has not the minerals; the minerals are reserved to the Land Commission.

Mr. WILSON: But it is untenanted land.

Mr. HOGAN: Land held in fee, subject to an annuity, is not untenanted land; it is purchased land.

Mr. WILSON: According to this Act, land held in fee is untenanted land.

Mr. HOGAN: No.

Mr. JOHNSON: I think the Deputies generally have been more or less convinced that the purchase scheme of this Bill is fair, and while being fair to the tenant, is not ungenerous to the landlord. That was the claim that was made, and under that claim Deputies have been induced to vote. Those who voted on these grounds surely are not going to be persuaded to add something to their generosity to the landlords at the expense of the State. The landlord is in possession, or has been in possession, of certain rights to draw rent from agricultural land. These rights have been purchased and are being purchased at a price which the Minister has urged, and which Deputies generally have been persuaded to agree is not unfair. They are parting with their control of that land for the sum which has been mentioned by the Minister in promoting this Bill. Deputy O'Maille comes along and says that if it is found at some future time that under this land which has been purchased by the Land Commission, there are minerals which the landlord knew nothing about, or if he did know anything about them, had taken no interest in them to work or develop them in any way, and if the Land Commission makes use of those minerals by leasing them hereafter or selling them, then the person who is now selling the land is to get twenty-five per cent. unless his interest shall have been purchased in the meantime by Saorstát Éireann. Are we to understand from that that he retains his mineral rights?

Mr. HOGAN: No.

Mr. JOHNSON: What is meant by saying "unless his interest shall have been purchased in the meantime by Saorstát Éireann"? An interest only exists if this proviso is put into this Bill. I take it that unless this new sub-section is inserted, the present landlord's interest in the minerals ceases.

Mr. HOGAN: Not under Clause (a).

Mr. JOHNSON: Not under Clause (a), because that provides for any mine or quarry which is being worked or developed by the owner. That I can quite

understand, and I am prepared to concede. But we are dealing with mines or minerals which are not being developed or worked by the owner, and which, in all likelihood, the owner never would have developed. He possibly had no conception that there were minerals under his land at all. We are asked to ensure that that landlord who, on the passing of this Bill, would have no rights in those minerals, receives a payment of twenty-five per cent. in rents or purchase money which may accrue to the Land Commission by virtue of a subsequent arrangement they make with a company or an individual who undertakes to develop these minerals. I say that is unnecessarily mortgaging the Land Commission's future. It is giving away money; it is quite gratuitous and unnecessary. It is telling the landlord or his sons that henceforward we are, at least, conceding they had a right in those lands; that all the statements that have been made in the Dáil and in other places regarding the method of acquisition by the landlords, may have been true in regard to agricultural land, but are not true in regard to the minerals under the land. We are asked to say that whatever may have been the fact in regard to the land as agricultural land, and however truthful is the contention that people who work the land were the true owners, subject to the national needs, so far as the minerals are concerned it is suggested that the landlords are perfectly entitled to twenty-five per cent. of any profits that may be made out of the sale or purchase. That is unnecessary.

It is a gift that has not been asked for. It is asking the Dáil to say, "While you have been so generous to us with regard to your agricultural land, you have been so friendly disposed to your tenants and the fact that you have not kicked up too much of a row over the 15 years' purchase justifies us in saying if there is any bonus to be thrown away we will give it to you; if any luck comes to the State by reason of the fact that there are minerals under the lands, we are going to give you 25 per cent. of this luck." I wonder what necessity there is for introducing this proviso? I do not think there has been any good argument put up in making so generous a promise. Surely when the landlord has given up all his claim to the agricultural value of the lands which he is selling we

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have no right to come along and say to him "We will secure you, at least, 25 per cent. of any profits we may make because of any discovery of minerals under that land in the future. You need not do anything to help to work these minerals but because your father or grandfather or great grandfather obtained possession of the surface, we are going to secure you 25 per cent. out of the profits we may make if these minerals are found there at some future time." I am surprised at the Minister accepting this amendment in its present form. I am sure Deputy O'Maille, now that his attention has been called to it, will agree to delete the second proviso, and allow the new Sub-Section to finish at the word "claim."

Mr. HOGAN: Deputies will have to remember that we are not dealing with tenanted land exclusively. We are dealing with the untenanted land, with land that the landlord is farming. We are taking up such land. We are acquiring it compulsorily. The landlord is in the same position now with regard to a very great part of the land we are taking, just in exactly the same position as the farmer is in relation to his own holding. We are taking up this land compulsorily on a wholesale scale, not at the market price but at a certain price for sub-division to tenants and congests.

Mr. JOHNSON: Is it a fair price?

Mr. HOGAN: It is a fair price, having regard to the prices that the tenants are able to pay for it. It has nothing to do with the market price, nothing whatever. It is a much smaller price than was given under the previous Acts. The Land Commission is retaining for itself the minerals on this land, and without any attempt, of course, in any way to pay for them. If there are any minerals they do not go to the tenant-purchasers; they are retained by the Land Commission. We do not profess to buy them; we simply retain them for the Land Commission. They are there. If it is found afterwards that there are valuable mines in these lands, say gold or silver or lead or copper mines or anything you like the Land Commission, who have never paid a penny for these minerals, and I am sure they have not paid anything extra which would go in some way to pay for those minerals, are asked to pay a

very small percentage of the price to the owner from whom we are taking the lands compulsorily, and who conceivably might have worked these minerals if the land had been left to them. In the previous Acts of 1903 and 1909 there is a similar provision, and I am willing to change that provision slightly to make it read like this: "Provided also that where any such rights vested in Saorstát Eireann under this section are at any time hereafter let, leased, or sold, the person who would have been entitled thereto if they had not so vested shall be entitled to receive such a share of money in respect of the same or for profits as shall be hereafter determined by the Oireachtas." That will leave the whole question open to the Oireachtas afterwards. They can say how much the owner is entitled to. I put it to the Dáil that it would be grossly unfair, having taken those lands, having reserved these minerals, if the owner who was not paid for these minerals, and whose land was taken compulsorily, and who in that sense will not have an opportunity of working them, that the State should make any profit out of these things, and that he would be entitled to nothing. Under the 1903 and 1909 Acts there was a proviso similar to the last proviso here. I am offering now to change this as I suggested.

Professor THRIFT: It seems to me there has been a doubt in Deputy Johnson's mind about this matter. If that amendment were accepted I rather fancy that the whole section would be quite contrary to Article Eleven of the Constitution. Deputy Johnson's amendment would mean that the landlord would not get 25 per cent. of any profit acquired in the working of the minerals of the lands. In that case you will be able afterwards to come in, and claim all the minerals under Article Eleven of the Constitution which says "Saorstát Eireann shall claim the mineral rights, subject to any valid private interest therein." I take this clause suggested as in the nature of a bargain, to give a certain percentage in the case of minerals. In return for that the landlord surrenders his rights. If this Bill becomes law, Deputy Johnson says there will be no private interests. I think that admits the landlord has private interests in any undeveloped minerals. If we passed this section it takes from the landlord all

these valuable private interests. We may be doing something that may land us afterwards. He can come in under Article Eleven of the Constitution, and say, "Under Article Eleven of the Constitution you have no right to take these from me; they were given to me by the Constitution and I claim the whole mineral rights now. I will take the whole profits arising from them." I submit this will be a very proper bargain to make. It costs the State nothing. For that the seller would be giving up all his rights as guaranteed to him under the Constitution. The State will get 75 per cent., and the present owner 25 per cent., and for that offer the seller would be giving up all his rights which are guaranteed under the Constitution. I think, as the Minister has said, it is only fair to give him something for his present rights.

Mr. DARRELL FIGGIS: I think that the change suggested by the Minister does meet the case I had in mind. I am not speaking without definite relation to certain pieces of untenanted

land where 25 per cent. would debar development. Take the land in Co. Kilkenny within the area of the Leinster coalfields, where there is only one seam possible to work at 21 inch thickness. As now worked, it does not show a greater profit than 6 or 7 per cent. If 25 per cent. were taken off, the proposition would be reduced to a line ball proposition. I congratulate the Minister on removing the 25 per cent., and leaving this question to be decided in the future by the Oireachtas—not only as a question of justice, as a question of right, and as a question of valid interest, to which Deputy Thrift has referred, but also as a question as to what such available rights or property, hereafter discovered, can bear in order that their working and development may be made profitable.

AN CEANN COMHAIRLE: Deputy Johnson's amendment is still before the Committee. In Amendment 33, in the proposed new Sub-section, he proposes to delete the second proviso.

Amendment put.

The Dáil divided: Tá, 10; Níl, 40.

Tá.

Tomás de Nógla.
Riobárd Ó Deaghaidh.
Tomás Mac Eoin.
Liam Ó Briain.
Tomás Ó Conaill.

Aodh Ó Cúlacháin.
Liam Ó Daimhín.
Cathal Ó Seánáin.
Domhnall Ó Mairghoasa.
Domhnall Ó Ceallacháin.

Níl.

Liam T. Mac Cosgair.
Donchadh Ó Guaire.
Seán Ó Maolruaigh.
Seán Ó Duinnín.
Micheál Ó hAonghusa.
Domhnall Ó Mocháin.
Seán Ó hAodha.
Seamus Breathnach.
Pádraig Mac Ualghairg.
Darghal Fíges.
Deasmhumhain Mac Goarailt.
Seán Ó Ruanaidh.
Ailfrid Ó Broin.
Pilib Mac Cosgair.
Domhnall Mac Cárthaigh.
Maolmhuire Mac Eochadha.
Sir Seamus Craig.
Gearóid Mac Giobúin.
Liam Thrift.
Eoin Mac Néill.

Liam Mac Aonghusa.
Pádraig Ó hógáin.
Pádraic Ó Máille.
Seoirse Mac Niocaill.
Fionán Ó Loingsigh.
Seamus Ó Cruadhlaoich.
Risteárd Mac Liam.
Próinsias Bulfin.
Seamus Ó Dóláin.
Próinsias Mac Aonghusa.
Eamon Ó Dúgáin.
Pearlar Ó hAodha.
Seumas Ó Murchadha.
Seosamh Mac Giolla Bhrighde.
Liam Mac Sioghaird.
Alastair Mac Cába.
Tomás Ó Domhnaill.
Earnán de Blaghd.
Uinseann de Faioite.
Seamus de Burea.

AN CEANN COMHAIRLE: Deputy Johnson's amendment is lost and Deputy O Maille's amendment, No 33, is now before the Committee.

PADRAIC O MAILLE: I accept the suggested change made by the Minister for Agriculture.

Mr. HOGAN: My suggestion was to make the second proviso read as follows:—

" Provided also that where any such rights vested in Saorstát Eireann under this sub-section are at any time hereafter let, leased or sold the person who

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would have been entitled thereto if they had not so vested shall be entitled to receive such share of any rent purchase money or any other net profit received in respect of the same as shall be hereafter determined by the Oireachtas unless his interest shall have been purchased in the meantime by Saorstát Éireann."

Mr. DARRELL FIGGIS: Before this is definitely put, I would like to recur briefly to the point I made before. I understood the Minister to say that the word, "owner," in the amendment, included the leases or concessions, but the leases or concessions I have in my mind are those held by third parties. If the Minister is convinced that the third party rights protected by the Constitution are adequately covered by the word "owner," I do not press the point, but I think it is worth inquiry.

Mr. HOGAN: The word "owner" is supposed to cover all. If he is not working it, the Section does not apply.

Mr. DARRELL FIGGIS: Supposing the owner of a certain parcel of untenanted land, whose land passes to the Land Commission, has made, over a certain portion of the land, a lease to a third party who has not yet begun to work it—in that case the lease exists, but the working has not yet been started by a third party. Is that case covered by the amendment?

Mr. HOGAN: I thought the point the Deputy was on was whether the word "owner" included the lessee. It does.

Mr. DARRELL FIGGIS: Even though he has not started working?

Mr. HOGAN: Provided he has a sod turned. The Land Commission must be satisfied that the owner, provided for there, is about to work the mine or quarry.

AN CEANN COMHAIRLE: The new amendment proposed to this amendment is:—"In the second proviso to delete the figures and words '25 per cent.' and substitute the words 'such share'; and after the word 'same' to insert the words 'as shall be hereafter determined by the Oireachtas.'"

Mr. JOHNSON: I am not quite sure of the position. Are we dealing with the second amendment or with the Section?

AN CEANN COMHAIRLE: We will have to take the amendment of the Minister as an amendment of the amendment before us.

Mr. JOHNSON: I admit that it is possible this suggested amendment is an improvement upon the fixed rate, but it does not satisfy me as to what I think the Dáil should ask. What is created by this sub-section in this new form, as it seems to me, is a new landlord's interests. With this sub-section inserted the landlord's present interest in the minerals which are hidden and have not been worked, and may not be known to the landlord—these interests are transferred to the Land Commission, that is to the State. What the new sub-section now proposes to do is in effect to create a new interest for the landlord. It suggests that "unless his interest shall have been purchased in the meantime by Saorstát Éireann."

Mr. HOGAN: It is suggested to leave these words out "shall be entitled to receive 25 per cent. of the rent, purchase money or any other net profit received in respect of the same" and to insert in lieu thereof the words "as shall be hereinafter determined by the Oireachtas."

AN CEANN COMHAIRLE: The Minister's suggestion is to delete the words after the word "same" and to insert in lieu thereof the words "as hereinafter shall be determined by the Oireachtas."

Mr. JOHNSON: I admit frankly that goes still further and simply says, for the satisfaction of somebody, I do not know whom, that the Oireachtas may, with the permission of this House, do something in the future. It simply does nothing, as a matter of fact. It says that future Parliaments may make up their minds what they wish to do, and if that is a fair interpretation of it, I will make up my mind on the subject before we come to the Report Stage.

Amendment put, and agreed to.

Amendment 33, as amended, put, and agreed to.

Question: "That Section 39, as amended (by the addition of the new Sub-section), stand part of the Bill," put, and agreed to.

Mr. ROONEY: I beg to move Amendment 34, to delete in Section 41, lines 39 to 42, the words "by a Co-Operative Farming Society (in this Part of the Act called the Society), or by a body of Trustees, by means of advances made by the National Land Bank, Limited (in this Part of the Act called the Bank)," and to substitute therefor the words "by means of advances."

The object of this amendment is for the purpose of giving tenants similarly situated as tenants of the Land Bank, and who are paying interest in lieu of rent to other banks, the same treatment. I think it would be very unfair to provide for tenants that have the good fortune in this case to be tenants of the Land Bank and to leave tenants out of the benefit of this Bill who have the bad fortune in this case to be paying interest in lieu of rent to other banks.

An Leas-Cheann Comhairle at this stage took the chair.

Mr. ROONEY: This amendment is one of a series in my name, Nos. 35, 36, 37, 38, 39, 40 and 41. I think we might deal with them all when dealing with the one. I think the tenants who are dealing with other banks should be put in the same position as those dealing with the National Land Bank, and that is the object of these amendments.

Mr. HOGAN: The purpose the Deputy has at heart is effected already in the Bill. If he looks at Section 30 of the Bill he will find it reads as follows:—

"Where the owner of a parcel of untenanted land which is vested in the Land Commission by virtue of this Act uses and cultivates the same as an ordinary farm in accordance with proper methods of husbandry; then

- (a) If the price of the parcel together with the value of any other lands in the possession of the owner as ascertained by the Land Commission does not exceed £3,000 the Land Commission shall, unless in their opinion it ought to be retained for improvement or enlargement or for utilization in connection with the relief of congestion, re-sell parcel to the owner at the said price, if before the appointed day he has undertaken to purchase it at that price."

Now in the Congested Districts, that is in

the whole province of Connaught and in the counties of Kerry, Donegal, and part of Cork and Clare, all the untenanted land bought by landless men will vest in the Land Commission as untenanted land. It is practically all fee simple land and the Land Commission will have the power to re-sell back to the owners. That I take it meets the case which the Deputy has in mind so far as the congested districts are concerned. Now in regard to the case outside the congested districts he will find that that is provided for in Section 33 which reads:—

"The Land Commission may purchase any untenanted land which they consider necessary for the purpose of providing parcels of land for any of the persons or bodies to whom advances may be made under the provisions of this Act, for such price, payable in 4½ per cent. Land Bonds of equal nominal value, as shall be agreed upon between the owner of such untenanted land and the Land Commission, and such land when vested in the Land Commission shall be subject to all the provisions of this Act relating to the providing of parcels of land for the persons or bodies aforesaid."

That gives the Land Commission power to buy untenanted land voluntarily from these people, and of course they will want to sell it and to make advances for the person or body to whom advances may be made under the provisions of this Act which is for the purposes of Section 29. Now between Section 33 and Section 29 the Land Commission have ample power to deal with cases so far as there is any merit in the case. They can buy the land voluntarily and resell it to the body or the trustee or the individual. Between these two Sections they have ample power to deal with every case which has any merit in it. There will be cases that they will not deal with, and rightly so, but so far as genuine cases go, they have ample power. The reason we have a separate Section for the Land Bank is because the land was bought under peculiar circumstances. The method of buying was peculiar, and all the conditions attaching to Land Bank sales were unique, and we thought it better to have a separate Section dealing with this separate case in which landless men bought land, and

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we have divided that matter in the Bill between Sections 33 and 29.

Mr. ROONEY: I ask leave to withdraw these amendments.

Mr. GOREY: Before the amendment is disposed of I would like to know what would be the position of a bank that has advanced an amount in excess of the value.

Mr. HOGAN: The Land Commission will have to do the best they can.

Mr. GOREY: It will be an extremely knotty problem.

Mr. HOGAN: It will.

Mr. GOREY: I know one case in Kilkenny and Carlow where the land was bought for £64 an acre and the bank advanced the money on the guarantee of the trustees. There is one case in Carlow in particular which will be a very knotty problem. Are you going to deal with the other banks on the same basis as the Land Bank? The Land Bank started about the same time advancing money for the purchase of land; the other banks came into competition with them. I have another case in which the tenants are subject to the ordinary landlord's rent and also to interest on a mortgage which brings the land up to £6 an acre. I do not know how you will deal with that.

Mr. HOGAN: We will not be able to solve all these cases here, and the Land Commission will have to do the best they can in each particular case. It is quite true that land has been bought very dear all over the country, and it will be very hard to deal with many of the cases. I assume the Land Commission, if they consider the land security at all, will finance the transaction up to 4½ per cent., and will try to relieve the tenants from the interest which they owe to the bank.

Mr. GOREY: In Kilkenny I know of a case where the Land Bank advanced money at the rate of 7 per cent.

Mr. HOGAN: We cannot do any more than I have stated. We will provide the machinery, and it will be for the Land Commission to do the best they can to enable the tenants to pay off the debts they owe. There will be cases of very great difficulty, but I do not propose, under this Bill, to solve every problem connected with the land question.

Amendments 34, 35, 36, 37, 38, 39, 40 and 41 by leave withdrawn.

Mr. DUGGAN: I beg to move Amendment 42, which proposes in Section 52, line 13, after the words "provisions of" to insert the words "Part IV. of." It is merely a verbal amendment.

Amendment put and agreed to.

Question put: "That Section 52 as amended stand part of the Bill."

Mr. DUGGAN: I beg to move Amendment 43:—To delete Section 55 (2), page 22, and to insert in lieu thereof the following:—

"(2) The first registration of land the registration of which is compulsory under the Act of 1891 shall be and shall be deemed always to have been a valid entry of the lands on the register under the said Act notwithstanding that the owner was dead at the date of such first registration and the person entitled to the lands on the death of such deceased owner shall be entered on the register as owner on application to the registering authority."

This new sub-section is the same as the original sub-section, except that the wording is different.

Amendment put and agreed to.

Question put: "That the new sub-section be added to the Bill."

Agreed.

Mr. DUGGAN: I beg to move Amendment 44:—To delete Section 56, page 23, and to substitute therefor the following:—

"After the passing of this Act no application or agreement to fix a judicial rent under the Land Law (Ireland) Acts in respect of any holding shall be listed for hearing or filed."

Amendment put and agreed to.

Question put: "That the new section be added to the Bill."

Agreed.

Mr. DUGGAN: I beg to move Amendment 45:—To add to Section 57, page 23, a new sub-section as follows:—

"(3) Where the proprietor sub-divides his holding for a limited period by way of family arrangement or for other similar reason the Land Commission from time to time may by general regulations authorise the registering authority to register the person claiming under any in-

strument executed by the proprietor which creates such temporary sub-division and shall be deemed to have assented to any sub-division to which effect has been given by registration pursuant to such regulations.

The effect of this amendment is to provide for registration in cases in which the owner sub-divides his holding, as, for instance, under a family arrangement or in similar cases.

Mr. JOHNSON: I would like to be quite clear as to the effect of this amendment. The new sub-section speaks of "by general regulations authorise the registering authority to register the person claiming under any instrument executed by the proprietor." It seems, from the original reading, that where there was to be any sub-division, it would be with the consent of the Land Commission, which rather suggests an individual application for consent and a consent in respect of individual cases; but the new sub-section speaks of "general regulations," and rather suggests a general assent to sub-division in a class of cases, but not in an individual case where an individual application is made and an individual assent given. The case seems to call for a separate application and a separate assent in every case rather than for "general regulations" covering a whole class of cases. Some words seem to be required to say that the Land Commission shall, subject to these "general regulations," make the assent that is spoken of under sub-section (1).

Mr. DUGGAN: The object of the amendment is to apply to a class of cases which are quite common. Very often a farmer by his will leaves the holding to one member of the family, but, perhaps, directs that his widow shall have the right to reside in a particular room of the house, or something of that kind. Technically, that is a sub-division, and it is in order to ensure that every case like that might be dealt with by general regulations, rather than that a special application should have to be made to the Land Commission, that this amendment is introduced. The registering authority will deal with cases of that kind rather than the Land Commission.

Mr. JOHNSON: Will the registering authority have any discrimination, subject to the general regulations? If the

general regulations were to apply to a whole class of cases, such as the Minister outlined, would the registering authority have to decide whether an application came within these general regulations or not?

Mr. DUGGAN: The registering authority would necessarily decide that.

Amendment put, and agreed to.

Question put: "That Section 57, as amended, stand part of the Bill."

Agreed.

Mr. SEARS: I beg to move the following amendment, which is down in the name of Mr. Burke:—In Section 61 (4), page 24, line 17, after the word "for" to insert the words "a County Borough Council or" and in line 25, after the "if" to insert the words "County Borough Councils" and in line 27, after the word "by" to insert the words "a County Borough Council or."

Sub-Section (4) of Section 61 gives power to an Urban District Council or Town Commissioners to purchase a parcel of land for tillage. The object of this amendment is to give similar powers to a County Borough Council.

Mr. JOHNSON: I think this amendment is intended to fulfil a promise that was made on the Committee Stage. It was promised at the time to find a form of words which would meet the discussion that took place, and I think the amendment satisfies that.

Amendment put, and agreed to.

Question put: "That Section 61, as amended, stand part of the Bill."

Agreed.

Mr. DUGGAN: I beg to move:—

In Section 63, page 24, to add a new sub-section as follows:—

(2) After the passing of this Act the provisions of Sub-section (3) of Section 36 and Sub-section (2) of Section 72 of the Irish Land Act, 1903, in so far as they relate to the payments on account of sinking fund after the expiration of five years from the vesting of land in the Land Commission or the purchase of land by the Congested Districts Board shall cease to have effect as regards land purchased by the Land Commission or the Congested Districts Board under any Act prior to this Act.

Mr. HOGAN: I am accepting this amendment. It is merely a matter of book-keeping, and is to provide that the Land Commission are not liable for Sinking Fund within the period of five years in respect of sales under previous Acts.

Amendment put and agreed to.

Section 63, as amended, put and agreed to.

Mr. DUGGAN: I beg to move:—

In Section 64 (2), line 57, page 24, after the word "unexpired" to insert the words "at the date of the passing of this Act."

This is merely for greater clearness.

Amendment put and agreed to.

Mr. FITZGIBBON: With your permission, as you are otherwise engaged, I shall move the amendment standing in your name, which is as follows:—

In Section 64 (2) (a), page 25, line 5, after the word "land" to insert the words "and there shall be payable to the tenant such compensation as the Judicial Commissioner may declare him entitled to in respect of any sums he may have expended on improvements. Such compensation shall be payable in $4\frac{1}{2}$ per cent. Land Bonds."

The amendment is to carry out an undertaking that was given on a former Stage, that where in a congested district a holding had been created by a very recent letting and the tenant had incurred expense in putting improvements upon that holding, and where the letting was declared void by reason of its having been made with this Act hanging over its head, that such tenant should be entitled to such compensation for his improvements as the Land Commission thought fit to give him. This is to carry out an undertaking given by the Minister, and it is only doing justice to a tenant whose holding is upset.

Amendment put and agreed to.

Section 64, as amended, put and agreed to.

Mr. DUGGAN: I beg to move:—

In Section 67, page 25, line 38, after the word "may" to insert the words "after consultation with the President of the Incorporated Law Society of Ireland."

Mr. JOHNSON: I want to commend this amendment. I think it is a very

good sign to find that Ministers are prepared to incorporate in Acts of Parliament a suggestion of this kind, that the chief officers of a trades union be consulted before any legal rules are drawn up. I think it is a very desirable precedent to create in the law, and I hope it will be followed by other Departments as well as the Department to which the Minister for Agriculture is responsible. There are quite a number of cases where the chief officers of trades unions might well be consulted before any decisions are taken by Departments, and I commend this amendment to the Dáil.

Amendment put and agreed to.

Section 67, as amended, put and agreed to.

Mr. VAUGHAN: I beg to move:—

In the First Schedule, Part I., page 26, to add after the figures and words "70 per cent." the following words:—
"With the exception that where the tenant of any holding in respect of which judicial rent is payable shall apply to the Land Commission for an inspection of the holding, on the ground that the holding is inadequate security for the advance to be made in pursuance of the provisions of this Act, and the Land Commission are satisfied that reasonable grounds exist for such application, the Land Commission shall cause such inspection to be made, and on the report of their Inspectors, and without a hearing in Court, shall fix the standard purchase annuity in respect of such holding on the same basis and having regard to the circumstances specified in this Act as if the holding were subject to a rent other than a judicial rent, and the decision of the Land Commission shall be subject to an appeal to the Judicial Commissioner, whose decision shall be final."

Mr. HOGAN: I am not accepting this amendment. If I may say so, it is a most annoying amendment. It alters the whole scheme of the Bill. We could easily go back to the old system under which every holding would be inspected. That might be the fairest way, but it was in response to the demands of the unpurchased tenants and the various other Land Associations that I dealt in this system of averages. I believe it is sound as far as it goes, and applies to judicial rents. Deputies want to have

it both ways. They want to have an average, and if the tenant is not satisfied with the average, then they want that they should be able to apply to the Land Commission and have a new inspection.

Mr. WILSON: That is fair.

Mr. HOGAN: I would be ashamed to have that in an Act. Why should not the landlord apply also if he thinks the rent is too low? Let us do injustice if we like, but hide it if possible. I would not accept this at any price because it alters the whole scheme of the Bill. We agreed that as far as judicial rents were concerned that a specified reduction would be given and that was recommended for two reasons. (1) expedition; (2) having regard to the fact that rents were regulated by law and escaped the inflation due to the war that any little injustice that would be done by an average would be so small that it would not make any difference. Here we are back to the old scheme under which any tenant that likes could apply to the Land Commission to come and value his holding. That would hold up the sales for a very long time and would, in fact, bring us back to the system in the 1903 Act. This amendment would mean that wherever a tenant thought he could get his rent reduced he could apply to the Land Commission, but if the landlord thought the rent was too low he could not apply. A provision of that sort in an Act would not be a credit to the Dáil. It would not be what you call even-handed justice, and I will not accept it. We fixed this 35 per cent. for first and second term rents with a view to having it so low that it would cover any cases, even special cases, and I am satisfied that no hardships will be done by the automatic application of that rule. In fact, Deputy Gorey practically admitted yesterday that the tenants were perfectly satisfied with the 35 per cent. reduction.

Mr. GOREY: I said nothing of the sort. I said they would accept it because they had no other alternative. I want just to draw attention to a few peculiar cases of evicted tenants.

Mr. HOGAN: That is provided for.

Mr. GOREY: I know they are peculiar cases. These tenants or their children

could not go into a Court while the original owner lived. There are some cases in County Kerry. After the original owner died the children went into Court during the war years and a high rent was fixed that counted as a third term. In these peculiar circumstances there is a hardship. There are only a few of them—they would not be half a dozen. These are the only cases I have in mind that this might apply to.

Mr. HOGAN: As a matter of fact, during the war strangely enough the average of rents was reduced. The average reduction during the war was practically as great as the average reduction before the war. There may be an odd case, but we cannot help that. I do not suggest for one moment that there will not be odd cases where there will be some hardship, but the number will be extremely small. If I pretended that I could introduce a Land Bill that would not do some little hardship in some cases I would be pretending to do what I was not able to do. The advantage of this procedure is its expedition, and I cannot depart from it at this stage. The whole scheme of the Bill rests on it.

Mr. GOREY: I quite agree that it would be a big question if it referred to judicial tenants, and would be very annoying.

Amendment, by leave, withdrawn.

Amendment by **Mr. GOREY:**—

In the First Schedule, Part I., page 26, to add a new paragraph as follows:—

(c) in the case where the judicial rent payable in respect of the holding has been adjusted by agreement between landlord and tenant, the average yearly rent actually paid by the tenant during the period of ten years, up to and including the gale day next preceding the passing of this Act, shall be deemed to be the judicial rent payable in respect of the holding, for the purpose of determining the standard annuity as aforesaid.

Mr. HOGAN: This Amendment has been debated already and is covered by a Section that was put into the Bill yesterday, providing that the Judicial Commissioners shall say whether the actual rent is the judicial rent or the abated rent.

Mr. GOREY: I think the agreement we came to covers all that is in the amendment, and I will not move it.

Mr. SEARS: I move:—

In the First Schedule, Part I., page 26, to add a new paragraph as follows:—

“ Provided that in the case of a holding subject to a judicial rent fixed by agreement on the reinstatement therein of a tenant, who or whose predecessor in title had been evicted therefrom, the standard purchase annuity shall on the application of either the landlord or the tenant made within the prescribed time and in the prescribed manner, be fixed in accordance with the provisions of Part II. of this Schedule as if the rent were a non-judicial rent.”

Mr. HOGAN: This Amendment meets the only case that could possibly arise, that is to say, where evicted tenants are reinstated as future tenants, or reinstated under a specially high rent. The amendment enables the Land Commission to inspect such holdings and fix a fair rent on the value of the holdings under Part II. of the Schedule.

Amendment put, and agreed to.

The following amendment stood in the name of **Mr. GOREY:**—

In the First Schedule, Part I., page 26, to add a new paragraph as follows:—

(c) in the case where the judicial rent payable in respect of the holding has been fixed by agreement between the landlord and tenant on the reinstatement of the tenant in his holding after having been evicted, the Land Commission, on the application of the tenant, shall cause the holding to be inspected, and shall fix an annual sum upon the same principles as a judicial rent upon receiving the report of their Inspector and without hearing in Court, and such annual sum shall be deemed to be the judicial rent payable in respect of the holding for the purpose of determining the standard purchase annuity as aforesaid, and the decision of the Land Commission shall be subject to an appeal to the Judicial Commissioner, whose decision shall be final.

Mr. GOREY: This Amendment is the same in substance as the one that preceded it, except that in the other one the

application can either be made by the landlord or the tenant.

Mr. HOGAN: You could not have it otherwise in decency.

Mr. GOREY: As the Minister has agreed to the other amendment I do not move this one.

First Schedule, as amended, put, and agreed to.

Mr. SEARS: On behalf of Mr. Duggan, I move:—

In the First Schedule, page 26, to insert in appropriate place:—

3 Edw VII Cap 2.	The Ireland Development Grant Act. 1903.	The Whole Act.
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Mr. HOGAN: I have already explained the reason for this amendment. This Bill earmarks certain sums for certain purposes which will be voted now yearly by the Dáil.

Amendment put and agreed to.

Second Schedule as amended put and agreed to.

Mr. HOGAN: The amendment which I suggest in place of Amendment 30, which was withdrawn, is:—To insert before Section 38, page 16, a new section as follows:—“ The powers of the Land Commission to expend money on the improvement of land sold, or agreed to be sold, under the Land Purchase Acts shall include power to provide, where necessary, rights of way to and from such land, and for this purpose they may in the prescribed manner make orders conferring and defining such rights of way and fixing the compensation, if any, to be paid to the owner of the land over which such rights of way have been conferred or defined.”

Mr. O'CONNELL: I take it that such land includes all land purchased under all the Acts.

Mr. HOGAN: Yes.

Mr. GOREY: I beg to move the amendment suggested by the Minister.

Amendment put and agreed to.

Question: “ That the new section stand part of the Bill,” put and agreed to.

THE DAIL RESUMES.

Bill as further amended reported.

Mr. HOGAN: Can we not take the Report Stage now and pass the Bill?

AN LEAS-CHEANN COMHAIRLE:

If the Dáil is agreeable.

Mr. JOHNSON: I do not know what is the intention. This Bill has been in Committee. Does the Minister mean that reconsideration of the Bill with the amendments incorporated should be taken now?

Mr. HOGAN: Yes.

Mr. JOHNSON: Considering all the amendments that have been adopted and that some of the amendments have been amended it is rather asking too much.

Mr. HOGAN: Of course this is a re-committal Stage. Deputies know the Bill fairly well as every Clause of it has been debated a great many times. However if the Dáil thinks it would like a little more time to look at the amendment, very well.

Mr. JOHNSON: Perhaps the Minister would consider one point. I have no objection to discussing this on Report, which is really the motion for final consideration now. There has been a considerable amount of discussion and new amendments have been accepted at this Stage. Another thing to be remembered by the Minister that if this is done the Bill cannot be altered until it goes to the Seanad. That I think should be taken into account. I think the amendments have been too heavy to allow such a precedent to be made, and I would suggest that it is not good policy to ask that such a large number of amendments be passed over without further debate and consideration.

Mr. HOGAN: I will accept the Deputy's suggestion. We can have the Report Stage on Monday.

Mr. JOHNSON: Can the amendments be incorporated and circulated?

Mr. HOGAN: Probably. I will ascertain that.

Fourth Stage ordered for Monday, 23rd July, 1923.

COMMITTEE ON FINANCE.**ESTIMATES FOR PUBLIC SERVICES.****IRELAND DEVELOPMENT GRANT.**

The PRESIDENT: I move: "That a sum not exceeding £99,000 be granted

to complete the sum necessary to defray the charge which will come in the course of payment during the year ending 31st March, 1924, for the Ireland Development Grant (Grant in Aid)." (A sum of £60,500 had been voted on account).

LIAM de ROISTE: Before going on with that, can we have some intimation as to when the previous Estimates are to be taken?

AN LEAS-CHEANN COMHAIRLE: 56, 57 and 81?

LIAM de ROISTE: Yes.

The PRESIDENT: If the Deputy wishes I will put them down for the first day we are taking on Estimates, but at any time that a Deputy desires to have an Estimate postponed we have always agreed to do so. I propose to take them on the first day we are considering the Estimates after to-day.

LIAM de ROISTE: When is that likely to be?

The PRESIDENT: To-morrow, I should say.

Mr. JOHNSON: On this Ireland Development Grant I would like to know exactly where we are. We have just inserted in the Land Bill Schedule an amendment including amongst the Acts which are repealed the Ireland Development Grant Act. Assuming that the Bill passes and becomes law, which I think is a fair assumption, where do we stand in regard to this Vote?

The PRESIDENT: With regard to the three items that are mentioned, that is No. IIIA., "Ireland Development Grant (Grant in Aid), provision for Statutory Charges on the Ireland Development Grant," these moneys will be required. The particular distribution of them might be different, but the moneys will be required. As regards No. II. "To the Public Trustee for the account of Trinity College, Dublin," that is already dealt with. And as regards No. III., that is an item which, as I explained already, is inserted as a provisional arrangement, pending the ultimate adjustment of the Excess Stock and Bonus account, and it is an agreement without prejudice to the ultimate settlement, a temporary agreement for the year. I think the sum in question was £160,000 altogether. A portion of it is.

[The President]. taken out of another Vote, and this £134,000 is inserted in this Vote, making up the agreed sum of £160,000, which was undertaken at the last Financial Conference that we had in London, to be the contribution from the Saorstát towards the service of Excess and Bonus Stock, so that although the moneys in question may not be administered by these bodies which it is proposed to repeal under the Act, they would nevertheless be required by some other body which would discharge the functions that had been ordinarily discharged, or to deal with the Fund called the Ireland Development Fund.

Mr. JOHNSON: I raised this question because I have rather assumed from the note that I have put to this Vote that it has been postponed because of an intention, perhaps, to deal with this Vote under a different head, in view of the intentions of the Land Bill. I take it that the money will be required in any case.

The PRESIDENT: The money will be required.

Mr. JOHNSON: It is not to be assumed that merely because we have a proviso abolishing the Ireland Development Grant Act that therefore we are saving the money?

The PRESIDENT: That is so, unfortunately. I wish it were otherwise.

Question put and agreed to.

SECRET SERVICE.

The PRESIDENT: I move: "That a sum not exceeding £25,000 be granted to defray the charge which will come in course of payment during the year ending the 31st March, 1924, for expenditure in respect of Secret Service. (£25,000 had been voted on account) I have answered questions put by Deputies in connection with this particular item, and I explained the last day that I would answer any such question. I think they are satisfied with that.

CATHAL O'SHANNON: I do not know that the Dáil ought to be quite satisfied about this matter. Deputies who inquired did get a certain amount of information, but I do not think it went very far. When the Vote came up on a previous occasion an explanation was

given which everybody, I believe, was quite satisfied with, but I do not think that that is the position now, not by a long way. Certainly no such explanation was forthcoming this time as on the last time, and it is necessary, I think, in justice to the Dáil and to the citizens, that we should have some further explanation and I would urge the Minister to give that explanation.

The PRESIDENT: This is not a Vote that is explained in any other House that I know of. In this particular case I have items of the various expenditures which I am prepared to give to any Deputy, as I had been on the last occasion with regard to the other Vote, but this particular Vote in any other representative House such as this is not the subject of explanation, and it ought not to be. I have the items here, and I will give them to any Deputy who wishes to get them.

Mr. JOHNSON: I am sorry that I was not able to follow everything the Minister said on this Vote. £50,000 for secret service is a decrease from £220,000 voted last year. Explanations were given regarding the very large sum included under this head last year which were accepted by Deputies, but we were assured that it was certainly not a vote for espionage. There is now the sum of £50,000, none of which is to be spent for the purpose for which the large sum was spent last year, but £50,000 is a very large sum to spend on espionage. £50,000 is an extraordinary large sum to spend on secret service for a country of this size. I assume that we have not sent spies to the Chancelleries of Europe. I assume that we have not sent spies to all parts of the world, and I cannot think, in the absence of that overseas espionage, what £50,000 is required for. It may be true that the practice in other countries has been to vote large sums for Secret Service, and to ask no questions. I do not know how this sum per head of the population compares with Votes in other countries per head of their population, but I would have hoped that our position would not require a sum of £50,000 to be spent on Secret Service, which I assume, in the absence of contrary information, is for espionage. Three and one quarter million of people, no army for overseas service, no necessity to find

cut what other countries are doing with their armies, and their navies, and their fortifications, and yet an expenditure of £50,000 on spies. I say it is altogether too much, and I move that this Estimate be deferred back for further consideration and reduction, and some detailed information to be given to the Dáil. I am not going so far as to say that the State may not spend any sum on Secret Service, but I dissent entirely from the suggestion that any sum of this kind of £50,000 should be so spent.

The PRESIDENT: I would like to correct any misapprehensions that might possibly be in the minds of the Deputies by reason of the statement that has been made by Deputy Johnson. On the last day, three or four weeks ago, when this Vote was on, I undertook to give Deputies who would apply to me any information that they thought it was their duty to get in connection with this Vote. To any Deputy who so applied, I gave the information, and it is scarcely fair to a Government to have the statement that has been made by Deputy Johnson made and not met or answered, having regard to the fact that I agreed to give all reasonable information to settle any reasonable doubts or scruples Deputies might have with regard to this Vote. There are no agents of the Government in the Chancelleries of Europe or elsewhere, to find out what prospects our Army might have in the event of a war taking place with any of these countries. We are not interested in such matters. We have no schemes of conquest in our minds, and neither have we any fears in our minds that in these Chancelleries there are any sinister methods behind the Governments. We are only concerned with the stability of the State here. As far as I have been able to discover from the figures, there is a relatively small sum which by any stretch of the imagination or any elaborate exaggeration that might be made by any person would not have the colour or tinge, or could not have the term "spy" applied to it. As far as I have been able to see from the lists supplied to me, the sum of about £140 is not explained with the same degree of detail as the other items. I have undertaken to give the information to any Deputy, and even though a great number of Deputies have not applied for that information at any time, never would I

rebuke them, or refuse to give them reasonable information on a reasonable enquiry on a vote of this character. But I do say, if there be a privilege at all attached to the Executive Council, there is a privilege with regard to an item of this character. The amount, having regard to the circumstances of the case, is a relatively small sum of money, not a very large sum, but the largest sum spent to date, from the information, before me, is £6,050. It is a matter, which if I informed Deputies as to the reason of its disbursement, or the service it is applied to, they would shrug their shoulders and say it is really not Secret Service at all. I am still prepared to give that information, but I think it is due to the Executive Council and to the public that we should not lie under the inference that might be drawn by Deputy Johnson's speech that we are using this money to reward spies. That is not the case.

CATHAL O'SHANNON: I think the President is really attempting to misinterpret Deputy Johnson on the matter. The President said the Executive Council was only following the example of other countries in not giving much public information on a vote of this kind. That may be perfectly true, but it is well known that the main reason why that information is not given in other countries is because no Government desires, if it can possibly help, other Governments to know what exact measures of spying it is taking against these other Governments. Deputy Johnson has said he assumed that it was for no such purpose that this vote or the greater of it was designed.

In other words, the Vote is for internal purposes—for internal espionage. Now, while it may be satisfactory to Deputies to get full details if they ask for them privately, it is not, I think, in the public interest that the public should be kept in the dark as to the main lines on which this money has been or is to be spent. It is in the public interest to know whether it is a political service or a military service. We all know the Army has got its intelligence service; we do not know whether or not that service is covered by this Vote. We know that other arms of the State, such as the police, for instance, have got their intelligence service and their secret service; we do not know if it is for them this

[Cathal Ó'Shannon.]

money is being provided. Then there is the ordinary police anti-criminal secret service. There is one thing that the people of this country have to get an assurance of, and the putting down of a Vote like this, without giving any public explanation, makes them think that there is being carried on in this country what was carried on under another regime—a purely political secret service, not altogether against criminals or people who attempt to further their ends by violent and illegal methods but that there are possibilities of quite a different order of political secret service altogether; and while an Executive Council has certain rights and privileges, it is not proper that the country should not be taken into confidence on some of these things, even if there were only a broad general outline of the particular activity given, without revealing anything that would weaken the position of the State. I think that ought to be given publicly. In other words, the directions in which it is intended that this money should be spent ought to be indicated. It is much better in every sense that people should know exactly where they are and what they are responsible for. After all, when a Deputy gets information of a private nature, it is more or less confidential, and we here in the Dáil should not consider that we are simply the rulers and the governors. When we come in here, anything we know or do is a matter for our own responsibility. There is a responsibility for us outside, and it is only fair and just that that responsibility should be shouldered. It is only fair and just that the people who will have to shoulder it should know exactly what it is. I urge that the Dáil should ask for more consideration in this respect, because we are not here merely as a body of individuals who come and hear certain things and get certain information for our own private satisfaction; we come here to do business and get information for the public satisfaction.

The PRESIDENT: I would like to say that there is not any of this money used for political purposes, as intimated by the Deputy. I have no misgivings regarding the matters which have been mentioned by Deputy O'Shannon. I quite understand it is open to severe criticism, by people who have peculiar mentality, to allege all sorts of things

against the Government. Whatever Government is in power it will have to have a service such as this. I do not know, and I have not been able to find out, that any Government has given, or offered to give, as much information as I have offered to give in regard to this matter. I do it all in good faith, believing in the confidence of the members of the Dáil and believing that they are entitled to this information. It is quite possible that another man in the same position, or another Executive Council, might not be so willing. There are, as Deputies know occasions when certain expenditure has got to be made which it is not desirable in the public interest that people should know. Whoever has the responsibility of Government at a particular time may be placed in exactly that position. It may be while one would ask for a sum far in excess of what is required, none of it might be spent, or a very small portion of it might be spent, in one year. For instance a sum of £220,000 was voted last year, and not £130,000 in that respect was spent. When this particular service was entered in our list, the largest portion of it was not even in contemplation. It was found that a certain service was required and there was no other means of discharging the cost of that service except through this Vote. Having regard to that fact, and the fact that there is nothing to hide but there is a certain position which had to be conserved and which is not conserved in the interests of the present Executive Council, I do not see my way to publish broadcast the details of this particular Estimate. I am prepared to give reasonable information to any reasonable inquiry, and if Deputies were to approach me on the subject and get the information that I am prepared to give, they would be satisfied too, I am sure.

Mr. FITZGIBBON: Every Government must have some fund at its disposal for purposes of this kind, a purpose to which, I have no doubt, this money is devoted. So long as we keep the amount within reasonable bounds, in my opinion the Government ought to get what they ask for subject, in our judgment, to whether or not the amount asked for is an amount they could possibly require for the purpose within the 12 months. It would frustrate all the objects of such a fund as this if, in the middle of the year, the Government

were to come to the Dáil and say: "we want such and such a sum for Secret Service." It would at once appear from the facts existing at the time what it was the sum would be used for, and then it would altogether cease to be secret. It equally ceases to be secret if they have to disclose at the beginning of the year the kind of purpose for which they intend to use it, and once one concedes that there must be some money available for Secret Service purposes, then I think the only question we can ask ourselves is whether the amount put down is so grossly exorbitant that it ought to be refused. When I recollect the fact that only a year ago we voted £220,000 for this purpose, it seems to me to demonstrate a very reasonable exercise of economy on the part of the Executive that they have reduced it to about one-quarter of that amount this year. Although a good deal of this year has gone already, they have only expended five or six thousand pounds for this purpose. Whatever surplus is left over after the expenditure of this year goes into the Exchequer.

It is not as if we were voting money which they could hoard for us in future years. In this case whatever is not expended comes back to the Exchequer, and if they come for a new Vote next year they must tell us how much they spent last year. If it should appear in this year, which I fancy would be a normal year, that instead of £50,000, only £25,000 will be spent then you could say that next year it could be cut down to £25,000 or £20,000. If they come down such a big amount in one year, then the Dáil would say that they would be able to take a further slice off next year.

Sir JAMES CRAIG: I think it is quite unreasonable to ask the Minister to publish the details of this Estimate. He has been extremely fair to the Dáil in offering to give any Deputy who applies to him full details of how this money is spent. I do not think we should ask or go further in the matter than that. I do not think it would be right to ask him to publish the details of the money set apart for secret service when he is quite willing to let us know how that money is spent. It may be that some of us would object to the amount as being unreasonable. But at the same time we are able to form an opinion of that by going to the Minister

and getting these figures from him. I certainly intend to support the Minister in this Vote.

Mr. DARRELL FIGGIS: It would be idle, I suppose, to paint the lily. I am prepared to support this Vote, because I do believe that any Government would require some such fund as this. I do not think it is excessive. I am not rising to question the amount. I think one is bound to deplore the necessity. But the necessity is generally admitted, and has been admitted by Deputy Johnson, and I think is resident in the fact. I am not rising, therefore, to question it, but merely to ask for information on one matter that I think the President would do well to mention. I do hope he will take my assurance that I am raising the matter in no fractious spirit. It is this: When an item like this, labelled under the general label "Secret Service," with no sub-heading and no particulars, is passed by this Dáil, what exactly is the procedure adopted in the Accountancy and Audit Departments in order that it might be known by the Accountant and Comptroller and Auditor-General's Department whether the sum is being put into the pocket which the Dáil, trusting to the Executive Council's discretion in a matter of this kind—this Executive Council, or any Executive Council—desires it should be put? It is a matter that does lie in the control of the public purse. I am sure he will give us information on that matter. It is really at the bottom of the whole thing, and would be a matter for elucidation in the Dáil.

Mr. JOHNSON: The amendment I have put forward is that this estimate be referred back for reconsideration with a view to reduction. The amount would run to about £1,000 a week for a year. The Minister has said, I think, and Deputy FitzGibbon understood him, as I understood him, to say that only about £6,000 had been spent under this head up to date, and nearly four months of the year have passed. Why, then, is £50,000 required? Contingencies presumably? Possibly that the Secret Service money may be required? I think it is too much. I have admitted that it is possibly too much to expect that a modern State can do its work wholly with its heart, if it has a heart, on its sleeve; but I am not prepared to admit

[Mr. Johnson.]

that a sum of £50,000 is required by this State for Secret Service. I have not asked for all the details to be published. I have asked the Dáil to disagree with a sum of £50,000 being voted for this purpose. The Minister has said that he would give as much information as it was reasonably possible to give to the Deputies if they would make inquiries from him, and more than other Ministers may be willing to give. That is not satisfactory either. Deputies obtaining information of that kind are thereby precluded from raising the question of any matter which may be divulged; in their receipt of that information they become parties to the expenditure of the moneys, whether they approve of the purpose or not. There cannot be much discussion on a matter of this kind. It is really a question of whether we are willing to vote such a sum whether it is considered large or small, is a matter of opinion, such a sum as £50,000, or £1,000 per week, for a Service of which we know nothing, and shall know nothing. Even when the accounts are audited the figures or details will not be given to the Dáil, because it is a Secret Service. It is a vote of a sum of which we know nothing, and shall know nothing, and I say that a sum of £50,000 is too much to vote away in the Dáil.

The PRESIDENT: In reply to Deputy Figgis, the operations regarding the expenditure in reference to this money is that the matter is first brought before the Executive Council. Arrangements are then made in the Department of whatever Minister is concerned. The responsible Minister shall personally sign or transmit to the Minister for Finance a form showing the amount to be expended. The Minister for Finance signs it. Then, after the check that takes place in the Department responsible for the expenditure there is no other check, nor will accounts be published regarding the expenditure of this money. That is the usual normal course in other countries. Regarding what Deputy Johnson stated, the question arises as to whether the amount is excessive. One cannot express an opinion about that without knowing in what particular circumstance the money is expended. The next question that would arise is—is value received?

Well, I am satisfied that there is, and I believe any Deputy to whom I would disclose the figures would be equally satisfied. The third question is—is the money well and properly expended? This would lead, to some extent, to the question that has been raised by Deputy O'Shannon. I am obliged to Deputy FitzGibbon and to Deputy Sir James Craig for their support of this vote, and also to Deputy Figgis. The time might come at any period during the year, when it might be necessary to have a sum of money available for the purposes of a national character. I have stated more than once here as well as elsewhere, that it was my hope that this Dáil either now existing, or in the future to be elected, would be a Dáil composed of people who would accept a certain share of national responsibility with regard to the matter. I am not at all sure that other people would agree with giving the information that I am willing to give Deputies who would put a question privately to me with regard to these services.

I know that there is political insight, and sometimes a political scruple, in this country, which is not so well evidenced in other countries, and so many people in this country know so many people, that suspicion is sometimes well grounded. In that case, I think, there is a certain candour advisable in dealing with public affairs. That candour entails responsibility. The Dáil must accept that as the Executive Council accepts its responsibilities. I think it is in the interest of the public that that candour should be accepted. If members do not agree with that, it is open to them to wash their hands of the responsibility of providing the Executive Council with a considerable sum of money. None of the money has been wasted, and it has not been used in the sense that people associate secret service in their minds. It has not been used in the sense in which secret service was associated in the old days in the Castle. It is money spent with one purpose only in view, and that is the best interest, the best good, and the safety of the citizens of the State. To that extent, I believe, it is our duty to insert a pretty considerable sum of money in the Estimates. It would not be sufficient if it was used in the sense of the criticism made by Deputy O'Shannon.

Amendment put. The Dáil divided: Tá, 11; Níl, 36.

Tá.

Tomás de Nógla.
Riobárd Ó Deaghaidh.
Tomás Mac Eoin.
Liam Ó Briain.
Tomás Ó Conaill.
Aodh Ó Cúlacháin.

Liam Ó Daimhín.
Cathal Ó Seanáin.
Domhnall Ó Muirgheasa.
Risteárd Mac Fheorais.
Domhnall Ó Ceallacháin.

Nil.

Liam T. Mac Cosgair.
Seán Ó Duinnín.
Micheál Ó hAonghusa.
Domhnall Ó Mocháin.
Seán Ó hAodha.
Seamus Breathnach.
Pádraig Mag Ualghairg.
Darghaí Fíges.
Deasmhumhain Mac Gearailt.
Seán Ó Ruanaidh.
Pilib Mac Cosgair.
Domhnall Mac Cárthaigh.
Maolmhuire Mac Eochadha.
Sir Séamus Craig.
Gearóid Mac Giobúin.
Liam Thrift.
Eoin Mac Néill.
Liam Mag Aonghusa.

Pádraig Ó hÓgáin.
Seoirse Mac Niocaill.
Fionán Ó Loingsigh.
Seamus Ó Cruadhlaich.
Cristóir Ó Broin.
Risteárd Mac Liam.
Próinsias Bulfin.
Seamur Ó Dóláin.
Próinsias Mag Aonghusa.
Eamon Ó Dúgáin.
Peadar Ó hAodha.
Seumas Ó Murchadha.
Seosamh Mac Giolla Bhrighde.
Liam Mac Sioghaird.
Tomás Ó Domhnaill.
Earnán de Blaghd.
Uinseann de Faoite.
Domhnall Ó Broin.

Amendment declared lost.

Motion put, and agreed to.

INTERMEDIATE EDUCATION AND UNIVERSITIES.

The PRESIDENT: The next one is the Intermediate Education and Universities' vote. I understand the Minister for Education gave an undertaking to a couple of members that it would not arise to-day. They wanted to get away. If the Dáil is agreeable I will leave that over until to-morrow.

Agreed.

ENDOWED SCHOOLS.

The PRESIDENT: I move "that a sum not exceeding £625 be granted to defray the charge which will come in course of payment during the year ended 31st March, 1924, for expenditure in respect of Endowed Schools, £313 having been voted on account."

The net increase in this Estimate arises solely from the diminution anticipated in the "appropriations in aid." It represents a sum recoverable from the Northern Government of Ireland in respect of endowments recoverable by the Saorstát,

Mr. O'CONNELL: The only point that arises is whether or not this Department should be merged with some of the other departments administering education. It seems rather strange to maintain this as a separate department with

a Secretary who gets £713 for administering such a comparatively small sum of money. I assume under this long promised Ministries Bill we will have this department merged in some one of the other departments instead of keeping it as a separate one. I quite appreciate it is a legacy from the old times.

MINISTER FOR EDUCATION (Professor Eoin MacNeill): The Deputy's view is quite correct. As this department appears in the Estimates it is merely a continuation of the old form of administration, and by no means implies that it will have a separate existence as a department in the future.

Question put, and agreed to.

LAND COMMISSION.

The PRESIDENT: I move "That a sum not exceeding £162,149 be granted to defray the charge which will come in course of payment during the year ending 31st March 1924, for expenditure in respect of Land Commission." I think this Vote is in much the same state of transition as the Development Grant Vote. The money of course will be required although there may be alterations in connection with the Land Act. I take it until the Land Act is passed and is law this cannot be regularised. I suppose there will not be any objection to this Vote.

Mr. O'CONNELL: I would like to know if the Minister is in a position to give us information with regard to the Land Settlement Department for which provision for salaries and travelling expenses is made. There is nothing in the details to show what exactly are the operations which this department carries out.

The PRESIDENT: It is not set out separately. I take it that it means that the old Dáil Department had been merged in the Land Commission. As Deputies know we only took over the Land Commission on the 1st April and these Estimates were prepared before that date and up to that date it was a service administered by the British Government. I believe the Land Settlement Organization that was functioning under the old Dáil has been merged now in this, and that is the reason for the addition of those words. I do not think that I have any further information that would interest the Deputy.

Mr. WILSON: I desire to ask the President with regard to the item under sub-head for contributions for excess stock and bonus is this sum of £25,500 the whole amount that the State has to contribute in connection with the excess stock to land purchase?

The PRESIDENT: I explained the whole sum involved was £160,000. You will find page 53 gives excesses £134,500 and that, together with those sums, make £160,000 which as I explained was our total temporary contribution to the cost of excess stock and bonus. We have already voted £154,000. I explained that at the last financial adjustment conference a sum of £160,000 was agreed on between us without prejudice to the final considerations of how the whole loss on excess stock and bonus was to be met. That sum was agreed as the contribution we had to put up this year pending the ultimate settlement.

Mr. WILSON: How will this State have to pay this £160,000 or could the President tell us what is to be the agreed sum between this country and Great Britain?

The PRESIDENT: The Deputy has asked me a very hard question. If at the ultimate financial adjustment it was arranged that our contribution was to be

nil we would not have to pay any more after the date of that adjustment but I am not altogether sanguine that that would be the case.

Mr. JOHNSON: The main question I want to raise and I may as well follow Deputy Wilson and ask whether in this estimate the sum of £242,000 as compared with £200,000 last year is an increase that might be reasonably expected to follow upon the Land Bill, and whether that is now included. In the drawing up of this Estimate was provision made for the extra expense that would almost inevitably follow upon the passing of the Land Bill and does that account for the increase of the £42,000.

Mr. Gerald FitzGibbon took the Chair at this Stage.

The PRESIDENT: No, the £20,000 was an arbitrary sum, simply an estimate last year of our conception of what this particular service would cost us. Last year up to the 1st April the expenses on administration of this service was borne by the British Government and the department was not handed over to us until the 1st April so that the sum of £200,000 is really a shot rather than an Estimate. The Estimate was not graded, I forget whether that is the exact term, but it meant a distribution as between the North and South of Ireland of the whole service of the Land Commission which had to be undertaken. That occupied a considerable time. Deputies will remember that at the time of the passing of the Constitution considerable difficulty arose about any Civil Servants engaged here upon Government work as to whether they automatically came over to us on the 6th December, and there was something very little short of a puzzle at that time to arrange how we should work the Land Commission while we had got over the other services, we had not got the Land Commission and the reason was that the "scheming" of the staffs as it was called had not been undertaken and consequently we did not know what we were in for. Now that operation took place in the meantime and the only difference between the estimate of last year and this was that last year the sum was put down at £200,000. I see under the sub-head "Land Settlement Department" that "salaries," etc., and

"travelling" etc. "expenses" are down under J and K. I do not know that any extra expenses in connection with the Land Bill were in contemplation when this estimate was being prepared. I rather think not.

Mr. JOHNSON: Coming to the question of this £5,000 under J. "salaries etc.", and £1,800 "travelling &c." no details are given as I already pointed out. I think that the Dáil would be interested to know what exactly is the position in regard to this Land Settlement Department. Is it a continuation of the old Dáil Settlement Scheme, because most of us were under the impression that that had been suspended, or is it a preparation for a new scheme of land settlement and the latter is in contemplation on the passing of the Land Bill? I think that perhaps with the exception of Deputy Wilson and his colleagues and perhaps the colleagues sitting behind Ministers we are not very familiar with the work of the Land Settlement Department, that is since the change. We all knew something of it in the times when they were trying to settle the land troubles in the old Dáil but we are not familiar with the work of the present Land Settlement Department and I think the Dáil will be interested and has some reason for asking a question, as to how this money is being expended and what is the work being done which necessitates this £1,800 in travelling expenses.

The PRESIDENT: I regret that the Minister for Agriculture is rather tired, after dealing with the Land Bill, and I can only give what is my own idea on the subject. As far as I am aware, speaking from memory, something like £300,000 worth of sales took place under the old Dáil. Now I am very much afraid that they were not altogether a success. The Department officials worked very hard, but one can understand that without good Government machinery behind them, and some resource the type of settlement which they endeavoured to effect, lacked a good deal of solidity. In other words they sometimes bought an estate and bought it at a pretty considerable price and disposed of it to a number of persons who put down certain sums of money. In effect it was not Land Commission work, as we know it, but an endeavour to either get land for land-

less people or to get additional strips of land for congests. I am sure that there are a number of officials engaged on this work. They had service with the old Dáil but, as far as I know, they have not yet been apportioned into the service. We are drawing in the old Dáil officials into the service and that is the only reason I know of that there should be put down "travelling expenses." I may mention an estate where a distribution of land took place. It occurred in a neighbouring constituency to my own. There were several reasons why the land should be taken; it was an historic farm and there was a popular movement in favour of getting it and I think that generally speaking the real defect in connection with any work done under the old Dáil was due to the fact that land was at a very high price during the years of the operation of the Land Settlement Courts, and that what was an economical proposition some years ago as far as land is concerned is no longer economic now.

Mr. JOHNSON: May we take it then that the sum for salaries and expenses is for salaries to men taken from the land settlement work of the old Dáil and taken over by the Land Commission to continue this or similar work? I take it it is not that men are being brought in.

The PRESIDENT: I cannot say about that whether new men were brought in or not, I do not know; there may have been one, but I do say that it is the old Department and that is my information. Question put and agreed to.

CONGESTED DISTRICTS BOARD.

The PRESIDENT: I beg to move that a sum not exceeding £9,750 be granted to complete the sum necessary to defray the charge which will come in the course of payment during the year ending on the 31st day of March, 1924, for Grants administered by the Congested Districts Board, including Grants in Aid.

(A sum of £160,000 had already been voted on account).

Mr. DARRELL FIGGIS: On a point of order, I desire to say that on the Order paper which came into Deputies' hands this morning, none of these votes were mentioned on it. I had been asked to raise some questions on this particular Vote, but inasmuch as it did not appear on the Order paper as coming before the Dáil to-day, I did not bring the papers

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with me dealing with the case I had intended to refer to. Deputies who wish to deal with matters in the Dáil, and who use the Order papers put into their hands in the morning as a guidance for the procedure of the day, are put in a very difficult position when there is a departure, as there has been to-day, from the procedure.

ACTING-CHAIRMAN (Mr. Fitz-Gibbon): A notice was circulated to every Deputy some time ago stating the order in which the balance of the outstanding estimates was to be taken, and that order has been followed with the exception that, at the request of certain Deputies, the estimates for Intermediate and University Education, were postponed.

Mr. DARRELL FIGGIS: I appreciate that very thoroughly, but, on looking at No. 3 on the Order paper, it will be found that we are running in excess of the information we received this morning as to the business that would come before the Dáil to-day.

Mr. HUGHES: In the papers we received this morning it was intimated that estimates up to, I think, No. 20 would be taken to-day.

ACTING-CHAIRMAN: That is the document I have just referred to. It is a fact that, on the Orders of the Day, there is nothing to show that we were going beyond Estimate No. 20 to-day. I do not know whether the point that the Deputy intends to raise is of such importance that he would ask to have this estimate postponed.

Mr. DARRELL FIGGIS: I do not intend to ask that the consideration of the Estimate be postponed, but I desire to point out that a departure from the procedure indicated on the Order paper for a particular day is calculated to place Deputies in a rather difficult position.

ACTING-CHAIRMAN: My view is, that it would be open to any Deputy, who had an important point to raise on any of the estimates not on the Order paper for the day, to ask whether it would be convenient to have that estimate postponed to a later day, but as the Deputy does not seem to desire to do that, I think we can go on.

Mr. DARRELL FIGGIS: I am not

going to assess the importance of the point that I had intended raising. I was merely asked to raise certain points, and I had intended to raise them as a matter of duty without assessing or minimising their importance in any way whatever.

The PRESIDENT: I do not wish to have the form in which the estimates are arranged disturbed, but at any time that I have been asked to have an estimate postponed I have agreed to that course. If the Deputy wishes that this estimate should be postponed, I am quite agreeable.

ACTING-CHAIRMAN: If a request was made to the Minister in charge to have a particular estimate postponed to a later date I have very little doubt that he would accede to such a request.

Mr. DARRELL FIGGIS: I have not the particulars before me now of the case that I wished to refer to, but briefly, without going into any details, it dealt with the case already made in the Dáil when a certain Bill was before the Dáil, with regard to the status of the Congested Districts Board's officials. Fuller details have been put into my hands since then, and perhaps it is just as well that I have not them here at the moment. But there is this question which could not be dealt with in the Bill itself. It was left over from the Land Commission Bill for an Executive decision. It was suggested at the time that a suitable place to raise this question of the status of these officials would be on this Vote. I would be glad if the Minister would state exactly what is being done in this matter. It will be remembered by him that the case put forward was that the Congested Districts Board's officials, according to their length of service, should be treated as though they had been, what in effect they were, though in fact they were not, Civil Servants, and should be transferred into an equal grade in the Civil Service when taken over into the Land Commission.

The PRESIDENT: I did not know that this question was going to be raised, but I do know that the matter has received the consideration of the Ministry of Finance. From recollection, I would say that my information on the subject was that these officials had not passed the Civil Service examination, and that in seeking to get the advantages of Civil

Servants they were asking for something which was not in contemplation at the time they entered the Service. An effort is being made to get them into the Land Commission, but I have no information as to the details or as to how the work is getting on. All I can say is that no general direction has been given or accepted by the Ministry of Finance that they are entitled to be regarded as Civil Servants in the way in which ordinary Civil Servants enter the Service.

Mr. JOHNSON: This is one of the Boards that has been condemned. I would like to find out from the Minister something in regard to the expenditure of these Grants in Aid. I know that the sum voted last year may or may not have been spent, but if it was not spent it was not liable to surrender. I would like to know whether, in fact, it was spent, and further to hear from the Minister for Fisheries some information regarding the intentions of that Ministry concerning the fisheries in these congested districts. I would like to know if the Minister has any information to communicate to the Dáil regarding the fisheries in the congested districts. I understand that since April the expenditure of the money, or such part of it as may be affected by the fisheries, has been expended by him, and as there are special problems relating to the fisheries in these congested areas, quite apart from the general problem, the Minister may have something to say in respect to his work and intentions in regard to these special problems. When we were dealing with the Vote for the Ministry of Fisheries the Minister made a general statement regarding the work of his Department, but not with special relation to the congested districts. Perhaps this Vote will give him an opportunity to say something on these matters.

The PRESIDENT: All I can say on the subject is that I have had repeated applications from the Minister to effect some severance between the sums due to his Department in respect of this and other Votes. I cannot say anything about the development of his Ministry. I think he did not anticipate that this estimate would be on and I do not know whether he is in the House or not.

Mr. DARRELL FIGGIS: Neither did I.

The PRESIDENT: I must say further in connection with what Deputy Figgis raised, that this particular Vote is different from others by reason of the fact that whatever money is voted does not come back. It is a dead loss to the Finance Minister. Once it goes out it is done with. We do not get any change out of it.

Mr. JOHNSON: Can the Minister say whether there has been any accumulation or that there will be a larger sum than £169,000 expendable this year?

ACTING-CHAIRMAN (Mr. Fitz-Gibbon): I was under the impression that there was an accumulation, and in the Bill that was passed dealing with the Congested Districts Board it was provided that the accumulation should be handed over to the Land Commission to be used by them. My recollection is that that was expressly provided in the Act.

Mr. DARRELL FIGGIS: That is correct.

ACTING-CHAIRMAN: The Board was to be wound up and the moneys in hand were transferred by the Act to the Land Commission to be administered by them in their Vote.

Mr. DARRELL FIGGIS: The part of the case that has been put up on the previous occasion, to which I was now making reference, was that certain promotions in the Congested Districts Board, which had been promised, did not materialise—promotions that in the Civil Service proper did materialise—and these advances were being claimed as partly due in respect of these premises. The answer that was put forward by the Ministry at the time that that argument was made was, that this would mean a certain demand on the Exchequer which this country was little prepared to pay at the moment. To that a reply was made by those of us who put forward the case on behalf of those employees that there had been certain accumulations and that these accumulations existing could be used for that purpose, justly and rightly used, without making any call upon the Exchequer. If I might use the expression, the claim of these employees in respect of pledges which they had received was, that these accumulations should in the first instance be garnisheed by them before the balance passed over to the Central Fund. That

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was the argument put forward at the time and we were asked to raise that argument again on the estimates for the Congested Districts Board.

ACTING-CHAIRMAN: That could scarcely arise now, because that surplus, by a Bill which has now become law, has actually been voted away to the Land Commission. Therefore, it cannot arise upon this estimate.

Professor MAGENNIS: I might say in connection with the point that Deputy Figgis has raised that what he sought to bring before the Dáil with regard to the claim of Civil Service status for Congested District Board clerks was, you yourself will remember, dealt with by an amendment proposed by you and supported by me and adopted, in a modified form, by the Minister for Agriculture. I was requested on behalf of those clerks later to propose a still further modification. I submitted it to the Minister and we discussed it, and he satisfied me that it was impossible to introduce it into the Bill for the purpose which we had in view. I think that is the answer to Deputy Figgis's enquiry at the present moment. The undertaking that was given was that these men would be brought over into the Land Commission service and that in due course the Civil Service certificate would be issued to those of them who were qualified for it, and in that way they would be put upon the permanent staff as Civil Servants. I personally was satisfied with the undertaking that I received on their behalf.

Question put and agreed to.

GOVERNOR-GENERAL'S ESTABLISHMENT.

The PRESIDENT: I beg to move:—
“That a sum, not exceeding £8,423, be granted to complete the sum necessary to defray the charge which will come in course of payment during the year ending on the 31st day of March, 1924, for such of the salaries and expenses of the Governor-General's establishment as are not charged on the Central Fund” (£5,000 had already been voted on account).

Mr. JOHNSON: The sum voted last year on this account was £10,000. We do not know whether it was all spent; I think we were told it was not. The sum asked for this year is £11,423. We are obliged to provide a suitable estab-

lishment, and I take it the Dáil is finally responsible for the definition of what is suitable. I do not think an expenditure of £11,000 should be asked for to provide for the Governor General's establishment: £5,545 for the salaries and wages of the staff; and £3,000 for an allowance for expenses to the Governor General. That is in addition to the salary provided for in the Constitution, which equals £10,000 for the year. We are asked again to pay the balance of the cost of purchasing and equipping two armoured cars, and the balance of the cost of purchasing and equipping a motor car for A.D.C.'s., a total of £1,873, and £940 for telegrams and telephones for the year. The total is £11,423. I think that is entirely beyond what the country can afford. It is an expenditure for this year of £21,423 for the Governor General's salary and for his establishment. There is no rent to be paid, I think, for a house. There is not a charge in this Vote, I think, for coal, fire or light. That has already been provided for in another Vote. We have already voted £5,000 for certain proposed works in respect of the residence of the Governor General and the late Chief Secretary's Lodge. I do not know what is required for the Governor General's residence, but I think I will not be far wrong in suggesting that the greater part of it is required for such works. A sum of £8,850 is also provided for maintenance and supplies to the Governor General's residence; £992 for furniture, fittings and utensils; £1,000 for fuel, light, water, and cleaning. A total of £11,442 for maintenance, repairs and other current charges. Proposed new works, £5,000; salary, £10,000; and establishment, £11,423. That is rather a costly luxury. I submit that there is no need for ten persons at a cost of £5,545 to be attached to this establishment, in addition to an allowance of £3,000 for expenses. The Comptroller of the household has £600; a chaplain, £250; medical attendant, £100; private secretary, £600; assistant private secretary, £350, in addition to clerks, and three A.D.C.'s. at £1,100, £1,000, and £700 respectively.

I do not think these charges are justified. Does any Deputy in the Dáil think they are justified? The old idea was that there were all kinds of duties devolving upon a Viceroy, social duties, and Official duties, that would appertain to a King, and that these duties inevitably called for very

considerable assistance, clerical, secretarial and the like. We have been led to believe that we were getting away from that, and that the Governor General's position would be strictly official; that there would be no court, and that the social functions would be such as would appertain to an official who was filling the necessary niche in the administration, but would not, by virtue of that fact, have any special equipage or train. We are having an expenditure thrust upon us which would only be excusable if there were such functions attaching to the office. Can anybody explain why it is necessary to have ten officials, at the cost I have indicated, attached to the establishment of the Governor General, and three A.D.C.'s, at £1,100, £1,000 and £700 respectively? I am quite certain that some work could be found, useful, perhaps necessary work, for some officials attached to the Governor General, but I cannot see that there is room for a Comptroller of the Household at £600, plus a Private Secretary and an Assistant Private Secretary, costing between them £950, with a clerk to that Comptroller, plus Typist and Extra Clerical Assistants, and then three A.D.C.'s. It is quite commendable that certain public works should be established of a useful character to find employment for unemployed citizens, but it is not usual to appoint men or women at such charges for comparatively useless work, at such a high cost for unemployed people. The question of the salaries is closed; the question of expenses in connection with repairs and maintenance is temporarily closed, but the Dáil has, unfortunately, in my view, quite wrongly voted for the payment of these sums for the maintenance of the Governor General's Establishment and for its re-lighting; but I hope the Dáil will not vote this sum of £11,423 for his establishment, in addition to all the rest. To test the Dáil, I beg to move that this Estimate be reduced by the sum of £6,423.

The PRESIDENT: I only want to say that this Establishment, as put down in the vote, is arranged on the lines of other Establishments of Governors General in accordance with the Constitution. There may be an addition in connection with the three A.D.C.'s. That is an addition and I accept responsibility for that, the fullest responsibility. In respect of the other charges, they are the normal charges, paid in Canada or Australia. They may be heavy, but they

are part of our agreement, and I am subscribing to them. I am subscribing also to the three A.D.C.'s, because of the fact that they have justified their existence. They are doing work that I thought necessary, and I myself accept personal responsibility in connection with that. It was my own suggestion and it was I who asked the three gentlemen in question to take up this office. They have done their work and I stand over that; but, as regards the other items, I have the same responsibility as other Deputies, in connection with the Establishment of the Governor General. I have nothing more to say on this.

Mr. WILSON: This question of the expenses of the Governor General is one which is very hard to explain away when you are faced with the poor people in the western parts of the country. They want to know why this is so, why they have to pay in their taxes for the upkeep of this bloated establishment which, as the President said, is on a par with the institutions in Canada and in Australia, which are two continents, while our country is only twenty-six counties and a poor country. Of course, we all agree that the Ministry were bound by the provisions of the Treaty to provide £10,000 for the Governor General and to maintain his house. We all understand that. But, at the same time, it seems to me that there has been excessive extravagance here, and I could not, when questioned on it in the West of Ireland, give any explanation that would enable the poor people, working on the land at 30s. a week, to understand the necessity for this expenditure.

CATHAL O'SHANNON: I agree with Deputies Johnson and Wilson that the provision is extravagant. Altogether, in all the Votes for this year, it comes to £40,000, or about £2,000 short of £40,000. It is too much. We have entered by an earlier decision into an agreement to pay a certain amount. Whatever the opinion of some of us on that amount may be, that job is closed, but it is not, I think, a good analogy to say that because the British Dominions have Establishments something similar to this, for their Governors General, we should have the same in Ireland. Deputies should remember that out there the people have still got the Monarchical tradition. They have a conception of dignity, and of history connected with the representative

[Cathal O'Shannon.]

of the Crown that we in Ireland have not, and that the people of Ireland, so far as we know them, do not desire. Even so, there are many in those countries who are inclined rather to cut down the expenses of a thing like this. We who have an opportunity of going about the thing in a right democratic manner are, if we pass this Vote, as it is put before us, throwing away that opportunity—wasting the opportunity. I have little hesitation in saying that if we go on in the spirit in which we have been going on, we shall soon find Levees, and Drawingrooms, and all the paraphernalia of a little court. It is not good enough for Ireland. We ought to cut it out. The President said that he is quite satisfied that the three A.D.C.'s have done their work. I have no doubt about that. So far as I know about them, they are quite capable of doing it, and doing it well, but the President has not told us—he has not told the country—what that work is and why it should take three of them for it. I suspect that, to some extent, it is not the exact kind of work that is done by A.D.C.'s to the Governor General of Australia, or South Africa, or Canada: that it is rather in the nature of temporary work due to certain recent circumstances. If that is so, then it should be provided for otherwise, quite otherwise. I referred to that before. I do not want to labour the points that have been raised. A case has been made against this huge Establishment, and the case has not been answered. I want to raise rather another aspect, and that is that, as we all understood, and as is perfectly clearly understood in the British Dominions, the office of Governor General is a non-political office.

AN CEANN COMHAIRLE resumed the chair at this stage.

CATHAL O'SHANNON: It seems to me from recent readings of the newspapers that there may be a tendency to depart from that particular non-political line. I do not for a moment suggest that, so far, in any of the gentleman's public speeches he has been acting as the mouth-piece of the Executive Council, but I do form at least a personal impression that in one of those speeches he was speaking in a more or less political capacity. I am not, at the moment, agreeing or disagreeing with the particular sentiments he expressed, but I suggest that it would

be well if from no other quarter, then from this particular quarter, that he should be reminded that even though he were expressing an overwhelming majority opinion that he should not express that opinion if it touches upon the sphere of what is purely politics.

Professor MAGENNIS: Deputy Wilson, it seems to me, has perturbed himself unduly with regard to the answer he is to give these poor downtrodden and oppressed people of the country who will ask him to account for this Vote. There are questions which do not admit of being answered in view of the mentality of those who put the questions. An old lady looking up from her newspaper asked her husband "What is the Vatican?" and he replied "Oh, the Vatican is a place where the Pope lives," and she retorted with a certain amount of heat "But why the Pope?" Now that is a type of question which defies answer. Would Deputy Wilson, when given this conundrum to solve, not feel that he would have a sufficient appearance of reply in the fact of the Treaty? Again and again it has been laboured in the Dáil that one of the terms upon which the Free State was secured was that we entered into a Treaty by which we took our place among the circle of free Nations, called the British Commonwealth of Nations. One of the terms of the bargain was that we were to have a Governor General, representative symbolically of the Dominion Union, and we were to pay, it was stipulated, the salary that is paid for one of those Governors General. Now, none of us like that. With regard to this matter I always feel like the character in the "Yeomen of the Guard" who explained to the heroine "I did not take to assistant head jailing because I liked assistant head jailing." We did not set up a Governor General because we were in love with the idea, or with the institution, but because it was part of the bargain. An argument has been used here which seems to me difficult to follow without a certain amount of mental gymnastics. We are only 26 counties. What does it matter if we were only six? It is not the extent of our geographical area that is in question. It is our status. It is a question of quality and not of quantity. The Governor General, at any rate, is the outward and visible sign of the status which we have in the Commonwealth of Nations. On

a previous occasion I argued as steadfastly as I was capable of arguing that the cost of the maintenance of this Establishment should be borne by a Dominion Vote. I take this opportunity of recanting that opinion. It is only right to be absolutely frank in these matters. When I contended that the Office was created not by our choice, but was forced upon us, I held as a corollary to that contention that the cost should be borne as an Imperial charge. This is a matter on which I hold second thoughts are best, because on reflection it occurred to me that if it were an Imperial charge that would constitute a further and unnecessary Imperial link, and that if we do accept, as we must accept, the Office, it is better, at any rate, that we should pay for it by our own Vote. I am quite satisfied that that is the more dignified position to take up, so that the only remaining question then is the question of amount. I remember that a celebrated leader of the early Radical Party in the British House of Commons, Mr. Labouchere, defended the Vote as a Radical in the British House of Commons on the ground that so long as there was a Royal Family to support it was only proper to support in a way consonant with the dignity of the position and the standing of the country of which they were the official head. It seems to me that that was a reasonable view to take, so I am not prepared to share the heroics of Deputy Wilson in believing this is something which is a wrong and an outrage on the poor. No doubt that money would run a very substantial housing movement. It would provide funds for a University extension; it would provide funds for a great many things. So too would the expenses on the Dáil, and the allowances for Deputies. We could argue away everything if we choose to concentrate just upon one aspect at the time.

Everything must be viewed in its relations. If we take things out of their relations we are dealing with abstractions. It seems to me that so long as Ireland is a Dominion, and pending arrangements for the housing, and what is called the paraphernalia of the Government and State, it is better for us to endure the situation with fortitude.

Mr. JOHNSON: Plus cash.

Professor MAGENNIS: Fortitude is exhibited in the payment of the cash.

Mr. JOHNSON: How much fortitude, and how much cash?

Professor MAGENNIS: I am speaking on this merely in order to seize the opportunity that I am provided with for a recantation of an heretical view I expressed in the earlier Vote.

CATHAL O'SHANNON: It is always very interesting to hear a recantation, especially when it is put with the characteristic alluring grace of Deputy Magennis, but it is not to pay that compliment that I rise. Perhaps on another occasion we shall have an opportunity of paying an even greater compliment to him. I rise to invite the President to be good enough to say whether the Governor-General, when speaking recently on certain political subjects, was expressing the mind of the Executive Council. I am a bit troubled about that and I would like if the President would be good enough to deal with it.

Professor MAGENNIS: Where does this tradition come from of the Governor-General being non-political, being dumb dogs, to use a Biblical expression? The accusation is made that the British tradition is being followed, and in the next breath an accusation follows that the British tradition is not being observed. After all, may we not make our own traditions? Quite recently a distinguished fellow-countryman has been going back upon all the traditions of his office. Lord Carson is a Judicial Officer and he has taken a very active part in politics. This is a period of revolution. Everything is undergoing the *bouleversement*. Why not the Governor-General give a lead in new departures?

CATHAL O'SHANNON: An excellent example.

Professor MAGENNIS: It is an excellent example. I think the party, one of whose slogans is the overthrow of all that is red tape and sealing wax and all that circumscribes the free play of mind and the liberty of individuals, should not try to forge chains of office upon a distinguished Irishman, and call it liberty.

Mr. JOHNSON: The difficulty is we are not calling him liberty; we are calling him the Governor General.

Professor MAGENNIS: Call it, I said

Mr. JOHNSON: Deputy Magennis, defending in the way he did this Vote,

[Mr. Johnson.] is entertaining and interesting. He has done what the other supporters of the Government are not willing to do, and he has done it in a way which would almost make one believe he himself was supporting this Vote when, as a matter of fact, every word he has uttered rather supports the contention that the sum should not be voted. When Deputy Magennis quoted Mr. Labouchere, I was reminded of other supporters of the Vote who defended themselves, though radical, in voting for sums for the upkeep of the British Monarchy, by saying "The more we allow them to spend, the sooner will it be brought into disrepute." Is that the view of Deputy Magennis? Does he desire to bring this office into disrepute by supporting a Vote amounting *in toto* to £37,865 for the establishment and upkeep of the residence of the Governor-General and his salary? To deputies who want to reduce the status, to prevent the possibility of this officer of the State attaining a social influence and power at an expense that is undesirable—a social influence and power which is antagonistic to the popular sentiment at the present time—it is tempting that we should encourage a very heavy expenditure on that establishment so that the people will more readily and more swiftly come to the conclusion that the office ought to be abolished *in toto*. The risk, I think, is too great. I would prefer to cut down expenditure and save something this year, and by cutting down expenditure, limit the possibilities of increase in unjustifiable, or shall I say artificial, social influence and political authority.

Deputy Magennis forgets that this officer was accepted by the Dáil and I think he himself pointed out that he was to be an officer of the State who would not have freedom to declare public policy, to make political utterances, and to do all the things which a free ruler a powerful independent ruler might do, but in political or State affairs to utter only the voice of the Executive Council. He was in fact to be a formal spokesman in high State affairs of the will and wish of the Executive Council. Deputy Magennis recants again, he wants that high official to be a free citizen, while holding that high office to be capable of making party speeches. That is the freedom that the citizen who does not claim such authority as the Constitution gives to the Governor-General

might well have and should have. But when any citizen has accepted this office, or any person has been appointed to this office, with distinct limitations both Constitutional and implied, limitations in his freedom, then he ought not to break through these restrictions. If this officer of the State is to be free to take part in political discussions, and make political pronouncements which are his own and not the pronouncements of the Executive Council, then you have brought the office into a position where every utterance will have to be publicly discussed, and somebody will have to be made responsible for that. So far we have understood that the Executive Council would be responsible for the utterances of the Governor-General. Deputy Professor Magennis asks that he should be free to make utterances on political matters on his own accord, and which may not be the views of the Executive Council. That immediately alters the whole Constitutional position of that officer. Deputy Magennis defending the office, and claiming certain liberty for that officer, contended by implication, though he did not say it, that it was reasonable to vote £11,423 for his Establishment in addition to his house, salary, maintenance, etc. No attempt has been made to justify that Vote except by the President in saying that in respect of £2,800, he accepted personal responsibility for the advice he gave that these three officers should be appointed. We are still awaiting the answer to Deputy O'Shanon's question as to what the duties are. But apart from those three officers, costing £2,800, there are other offices which are redundant and unnecessary, and there is an allowance of £3,000 for the maintenance of the official residence and establishment in addition to the £11,442 already voted in another Vote. It is really delightful to go through these various Votes, and to find out how officials' salaries may be made up. You get a cheque for so much on the first of the month. Then you get a supplementary cheque for another purpose on the fifth of the month, and a further cheque for another purpose on the thirteenth of the month, and they are all utilised in one or other of the purposes which appertain to the occupation of the person receiving this salary. But they are put down in different groups so that nobody will know at first sight what actually is being paid for these services. A little examination shows that for this

year the Dáil is asked to spend £37,865 for the Governor-General's salary and upkeep. I submit that that is entirely too much and that the sum that has already been voted on account £5,000 ought not to be exceeded. That is the effect of the amendment which I have moved.

Mr. DOYLE: I am inclined to support the amendment moved by Deputy Johnson on the grounds not that I consider the salary out of place. Provision is made for that in the Constitution, and moreover some of the salary will come back I presume in taxation to the revenue. But I hold that under the circumstances, establishment charges are extravagant. We have been told by the Minister for Finance over and over again, and by many other Ministers when any application was made for money for other purposes, that it is only by the strictest economy that the nation can get on its feet. I do not think, in the establishment charges for the Governor-General, that strict economy is practised, not that strict economy that we have heard so much about from the Government.

The PRESIDENT: I regret I have not time to read the Governor-General's, my own or anybody else's speeches. I do not know what it is that the Deputy refers to when he mentioned this pronouncement. I have not read speeches for a long time from anybody.

Mr. JOHNSON: Will the Minister read it if a copy is sent to him?

The PRESIDENT: No I could not undertake to do that. For a long time I have not read anybody's speeches.

Mr. JOHNSON: This is a rather extraordinary position for the President to take up.

AN CEANN COMHAIRLE: Perhaps the President would be allowed to continue.

The PRESIDENT: I will not read long speeches from anybody. I never make long speeches myself.

Mr. JOHNSON: Would the President read interviews with newspaper correspondents?

The PRESIDENT: I do not. I do not even read my own interviews with newspaper correspondents. If there is any matter of a Government nature put to me I will answer it.

Mr. JOHNSON: This is a matter in connection with Government business.

The PRESIDENT: This is not the time to raise it. If the Deputy has a question in that connection he should put it on the Order Paper and I will answer it. With regard to the items making up this account, Deputies are probably aware of the fact that this residence, in which the Governor General is housed, was once offered to Henry Grattan as a present by the British Government. He very properly refused it. It is a very expensive establishment. It has always cost a considerable amount of money to keep up and no economy practised by any person in residence there would limit the heavy expense of that establishment. If no Governor General were living there the cost would still be the same so far as upkeep is concerned, if you meant to keep it in order. The upkeep of the Chief Secretary's Lodge is considerable but it is not nearly as much as this. The other items here are items which form the Establishment. That is part of your bargain. It is part of the bargain anybody else in our position would have to put up if they meant to carry out the bargain made. The Establishment cannot be maintained on the sum which Deputy Johnson's amendment would leave available for the purpose and it would not carry out the bargain.

AN CEANN COMHAIRLE: The sum asked for now for the salaries and the expenses of the Governor General's establishment is £6,423. £5,000 has been voted on account. An amendment has been offered to reduce the sum by £6,423. That amounts to a direct negative, because the sum asked for here is not the full sum asked for, namely £11,423, as stated in the book. It is just £6,423. I will, therefore, put the Motion, and those in favour of the amendment can vote against the Motion.

Motion put.

The Dáil divided: Tá, 29; Nil, 17.

Tá.

Liam T. Mac Cosgair.
Micheál Ó hAonghusa.
Seán Ó hAodha.
Seamus Breathnach.
Pádraig Mag Ualghair.
Ailfrid Ó Broin.
Pilib Mac Cosgair.
Domhnall Mac Cárthaigh.
Maolmhuire Mac Eochadha.
Sir Seamus Craig.
Gearóid Mac Giobúin.
Liam Thrift.
Eoin Mac Néill.
Liam Mag Aonghusa.
Pádraic Ó Máillo.

Seoirse Mac Niocaill.
Fionán Ó Loingsigh.
Seamus Ó Craadhlaioich.
Cristóir Ó Broin.
Próinsias Bulfin.
Seamus Ó Dóláin.
Eamon Ó Dúgáin.
Peadar Ó hAodha.
Seumas Ó Murchadha.
Seosamh Mac Giolla Bhrighde.
Alasdair Mac Cába.
Tomás Ó Domhnaill.
Earnán de Blaghd.
Uinseann de Faoite.

Nil.

Seán Ó Duinnín.
Domhnall Ó Mocháin.
Tomás de Nógla.
Riobárd Ó Deaghaidh.
Tomás Mac Eoin.
Seán Ó Ruanaíllh.
Liam Ó Briain.
Tomás Ó Conaill.
Aodh Ó Cúlacháin.

Risteárd Mac Liam.
Liam Ó Daimhín.
Cathal Ó Seanáin.
Domhnall Ó Broin.
Domhnall Ó Muirghessa.
Risteárd Mac Fheorais.
Micheál Ó Dubhghaill.
Domhnall Ó Ceallacháin.

Motion declared carried.

The PRESIDENT: I beg to move to report Progress and ask leave that the Committee sit again to-morrow. Agreed.

[DAIL RESUMES.]

Progress reported, the Committee

ordered to sit again on Friday, the 20th July.

The Dáil adjourned at 8.20 p.m. until Friday, July the 20th, at 12 o'clock noon.

DÁIL EIREANN.

DE HAoine, 20ADH IUL, 1923.

(Friday, 20th July, 1923.)

Cromadh ar obair an lae ar a 12.10 p.m. Bhí an Ceann Comhairle, Micheál O hAodha, sa Chathaoir.

CEISTEANNA—QUESTIONS.

[ORAL ANSWERS.]

DUBLIN DESTROYED AREAS.

AILFRID O BROIN asked the Minister for Finance if he will state when the claims of residents of the destroyed areas in Dublin will be heard.

The PRESIDENT (Minister for Finance): The rule-making authority of the County Court Judges is at present engaged in drafting rules of Court under the Damage to Property (Compensation) Act. It will not be possible to give the information asked for in the question until these rules are ready, which it is hoped will be next week. The Deputy is aware of the fact that a large number of small claims has been dealt with in Dublin.

O'CONNELL STREET PROPERTY.

AILFRID O BROIN asked the Minister for Local Government if he is aware that owners of property destroyed in O'Connell Street, who have erected temporary premises, have been assessed by Commissioners of Valuation 33 per cent. higher than their old premises; and to ask if he will take steps to remedy this injustice.

MINISTER for LOCAL GOVERNMENT (Mr. E. Blythe): This question should have been addressed to the Minister for Finance, but I may say that a Bill to deal with the question of the destroyed premises is in draft.

Mr. A. BYRNE: Arising out of the reply. I would like to ask the Minister whether he would take steps to withdraw this 33 per cent. increased valuation on a wooden hut erected in O'Con-

nell Street, and not put the person assessed into the position of having to go to Court? I think the Minister will agree that it is rather an unjust valuation to put on a wooden hut.

Mr. BLYTHE: That question should be addressed to the Minister for Finance.

Mr. A. BYRNE: I would like to ask the Minister for Finance whether it is intended that the owner of this wooden hut will be put to the inconvenience and expense of going to Court to get the valuation reconsidered, or whether he will take that responsibility?

The PRESIDENT: I cannot answer that question offhand, because I did not see the question on the Order Paper until now. This matter has been under consideration in my office for some time; not this particular item dealing with O'Connell Street, but the general question of re-valuation where premises have been destroyed, either through the operations in the Anglo-Irish war or the operations which have taken place since the Truce. I have made arrangements to see the Commissioner of Valuation to consider how best the matter can be dealt with. I can give no undertaking, but I do say there is present in the minds of all the parties considering this question the importance of dealing with this in an equitable manner.

Mr. A. BYRNE: Is the Minister aware that under the old Reconstruction Act there is a provision in operation which prevents the valuation being increased to anything further than what it was in the days before the premises were destroyed? I would like to know whether the Minister's Department will consider the advisability of giving the same treatment to the residents in Upper O'Connell Street as were given by the British Government to residents in Lower O'Connell Street.

The PRESIDENT: The question is much more complicated than the Deputy appears to realise. First of all, if one were to undertake the arrangement that was come to after the destruction of premises in O'Connell Street in 1916, one would have to bear in mind the fact that Dublin had been recently revalued, and that a revaluation or a re-assessment of new premises bore scarcely the same relation to a newly-valued city as, say, the

[The President.] re-assessment of valuation in Cork, which would be a re-assessment on a modern basis compared with an old valuation which was in operation for some fifty, sixty, or seventy years. If one were to take the headline that was taken in the case of 1916 in the destroyed area, the people affected in the City of Cork might reasonably object to that, and I know there was a clause passed in an Act in 1916 dealing with revaluation, and pointing out that the old valuation should prevail for twelve years. I know that. It is on that account, and on account of the obvious injustice to people, that we are considering the matter. It is scarcely fair to ask us if we have considered every phase of a matter of that sort when the matter is still under consideration. We are considering it and taking into account all the elements of the case, and there are more elements in the case than the Deputy has mentioned.

Mr. CORISH: Arising out of the answer given by the Minister for Local Government, would it be too much to ask that when a question is addressed inadvertently to the wrong Department, it would be sent to the proper quarters? Sometimes, if the question were not addressed to the proper Department, it might be held up 48 hours, and it might be very important.

AN CEANN COMHAIRLE: When it is noticed that a question is addressed to the wrong Department, it is sent to the right Department. A question which calls for serious consideration very often, of course, cannot be answered in 48 hours. Any delays that occur will be the very shortest possible.

HILL OF DOWN ARRESTS.

CATHAL O SEANAIN asked the Minister for Defence, in reference to his replies to questions on June 26th and July 10th, whether the men arrested at the Hill of Down, who have signed an undertaking not to interfere with the property of others, have yet been released.

MINISTER for DEFENCE (General Mulcahy): These men were released yesterday.

CATHAL O SEANAIN: May I ask the Minister why it was they were not released sooner, after his promise that

they would be released on giving this undertaking?

General MULCAHY: I have not that information.

CATHAL O SEANAIN: May I suggest to the Minister that he should get that information, because this is the second or third case of the kind that has occurred?

QUESTION ON ADJOURNMENT.

Mr. HUGHES: I beg to give notice that on the adjournment I will raise a question of the Boundary Commission.

Mr. DOYLE: I also wish to raise a question on the adjournment this evening. It is a question of allowing political prisoners now interned the right to register their votes at the coming election.

AN CEANN COMHAIRLE: There can be only one question raised on the adjournment. As a matter of practice we have been allowing only one thing to be raised on the adjournment. The time is limited to half an hour, and that would only suffice for one topic to be taken up. Deputy Doyle will have to give notice for another evening.

Mr. DOYLE: I wish to give notice, then, that I will raise the question on the adjournment on Tuesday evening.

SUPERANNUATION AND PENSIONS BILL.—FIRST STAGE.

The PRESIDENT: I ask the leave of the Dáil to introduce the Superannuation and Pensions Bill to amend the law relating to superannuation, and to authorise the granting of pensions to certain classes.

The purposes are to make provision for Civil Servants employed in the old Dáil Department, to provide for victimised public servants, to provide pensions for wounds or deaths in respect of members of the C.I.D., the Citizens' Defence Force, and the Protective Force; to provide for a revision of the pensions to certain pensionable National School teachers; to enable arrangements to be made with the British Government regarding the operation of the Superannuation Acts as respects transferred officers.

Leave to introduce Bill granted.

Second Stage ordered for Wednesday, the 25th July.

CIVIL SERVICE REGULATION BILL.—FIRST STAGE.

The PRESIDENT: I ask leave to introduce the Civil Service Regulation Bill, to regulate the appointment of persons into the Civil Service of Saorstát Éireann and to establish a Civil Service Commission to control appointments. The Dáil will recollect that on the 8th June I explained the proposals of the Government in regard to the creation of a Civil Service Commission, and undertook at that time to introduce a Bill to put the Commission on a statutory basis. I do not think it necessary now to say more than that the Bill sets up a body of Commissioners to control appointments into the public service, and that a certificate of fitness will be necessary before any person can be given a permanent appointment in the Service. The Bill also gives the Commissioners power, in conjunction with the Minister for Finance, to regulate temporary employment in the public service, to regulate the method of selection in the case of certain professional and technical appointments which are of the character requiring selection rather than an educational examination. The Bill lays down for appointments to the general body of clerkships, etc., in the public service the principle of open competitive examinations. I should say that in arriving at the proposals outlined in this Bill the Government has given very careful consideration to the system adopted in other countries. We attach great importance to this Bill, for the Civil Service is the machine through which the government of the country is largely exercised, and in the interests of efficient and impartial administration it is essential that recruitment to the Service should be so regulated as to draw into the ranks only those whose efficiency and character fit them for the important work of State service. I accordingly move for leave to introduce the Bill.

Leave to introduce the Bill granted.

Second Stage ordered for Wednesday, 25th July.

Mr. DARRELL FIGGIS: May I assume that a Bill of this importance will be taken as the first matter on Wednesday for the Second Stage? Could that be arranged?

AN CEANN COMHAIRLE: There are two Bills now ordered for Second Stage

on Wednesday. One is the Superannuation and Pensions Bill, and then there is this Bill. The President may, under the Standing Orders, arrange which is to have priority.

The PRESIDENT: I have no objection to the Civil Service Regulation Bill coming on first on Wednesday.

COMMITTEE ON FINANCE.

ESTIMATES FOR PUBLIC SERVICES.

INTERMEDIATE EDUCATION.

The PRESIDENT: I move: "That £62,750 be granted to complete the sum necessary to defray the charge which will come in course of payment during the year ending the 31st March, 1924, for expenditure in respect of Intermediate education, including the payment of teachers' salaries grants." A sum of £70,000 has been voted on account.

Professor MAGENNIS: Since we discussed the Educational Vote a few months ago a very considerable amount of progress has been made by way of administration. The Dáil will recollect that when I did complain, as I did more than once, of the absence of any promise or shadow of a promise of the introduction of an Education Bill, the Minister replied that much could be done through administration. I must confess that at the time I was somewhat sceptical as to the amount of progress we were likely to have through that mechanism. It is only fair to say, and it is a pleasure to me to make the confession, that what has since been published on behalf of the Ministry of Education indicates that not only has this great national subject not been neglected, but that it must have been given a more than usual amount of highly considered thought, and that a great step forward has been taken to provide the country with that type or system of secondary education which its needs demand. I might, as a member of the late Intermediate Board, complain to some extent of the methods employed in getting this new machinery into motion. It is notorious with regard to motor cars that the engine requires to be run in. It takes at least 500 miles of running to secure that desirable result. The poet Byron, referring to his sudden blaze of glory arising out of the publication of "Childe Harold," declared that he went

[Professor Mugennis.]
to bed and rose up one morning to find himself famous. The members of the Intermediate Board went to bed one evening less than a month ago Commissioners of Intermediate Education, and rose up in the morning to read in the newspapers that they were merely private citizens. However, I make no complaint with regard to that. The dissatisfaction with the method is swallowed up in the supreme satisfaction with the aim of what has been done. There was, the Dáil will remember, a great deal of criticism published by way of complaints that the new development was about to sweep away examination. But that is not so. And even if it were so, the reform would not be altogether wrong. Now, I have always been an advocate of examination, and I say what I have just said without the slightest fear of any inconsistency being imputed to me. We have had quite too much of the external competitive examination in secondary education of late years. That does not mean that external competitive examination in secondary education in Ireland was always bad. The Boards of Education have long been butts for popular and consequently unconsidered criticism, and now that the Intermediate Board has passed away, and, like Sir John Moore in the poem about his burial, "They carved not a line, they raised not a stone," I for one am willing to leave it alone in its glory. It did great constructive work. I have had my own quarrels with it until I became a Commissioner myself, but it must be said in justice that it did great constructive work. Before the Intermediate Act came into operation there were many secondary schools characterised more by listlessness than by work, and very, very few indeed in which real education was attempted.

The system of examination, with grants on results to teachers and huge arrays of exhibitions and prizes for the successful students, galvanised existing schools and brought into existence innumerable others which, though not of the highest efficiency, really attained to wonderful efficiency when we consider the conditions under which they had to exist. I have been an Intermediate pupil, an Intermediate teacher, an Intermediate examiner, and an Intermediate Commissioner, and I think therefore that in point of experience in regard to Intermediate

Education in Ireland I might, without undue want of humility, claim to be able to say something about Irish Intermediate Education at first hand. I have always been interested in secondary education; I have studied secondary education as it is carried on in other lands, and I have no hesitation in saying—and it is not a boast made in the spirit of national vanity, but a statement which will bear examination—that we have built up in this country a very admirable supply of intermediate schools, and that we have laid the foundation here for higher education, arising out of Intermediate School work, which is bound to be in succeeding years of the highest value. There was too much of the external examiner. It is proposed now to reduce that type of examination to a minimum. This is not a revolution which the Ministry are creating. I read from what I call the swan song of the Intermediate Board passages of its last report, in which it is indicated that the substitution for the examination system of an Intermediate certificate and a leaving school certificate was the line upon which reformation ought to proceed, and that is the line upon which I understand the present Ministry of Education has already set out. In pre-war Germany, which we were accustomed to look to as the great exemplar for educational policy and educational procedure, there was what was called a certificate of maturity. Corresponding to that in the Scotch system was the leaving school certificate. A great point of superiority which I would recommend to the Ministry on the side of the German maturity certificate was that the progress of the pupil was attested by his teachers under the supervision of inspectors who represented the Ministry of Education, and the nation was bearing the expense of subsidising secondary education. The record of the student's progress of that type was the material factor in the granting of the certificate and in the fixing of the terms of its wording. Armed with such a certificate, the student was at liberty to enter the Universities or the higher technological institutions, and it provided him with the necessary qualification for entrance to the learned professions.

I have dwelt perhaps at too much length, you would say, for a Parliamentary discussion, upon educational policy, but I should like to inform the Dáil that quite recently there was a prolonged and

a highly alert debate in the French Chamber of Deputies on this very question, and the Minister for Education, M. Léon Bérard, explained his reasons for adopting a certain policy. That is a matter upon which I would like your indulgence, Sir, to dwell for a moment. Our secondary schools have, to a great extent, been under the influence of those views on education which were fixed, almost stereotyped, since the Renaissance, the idea that the great classical writers were the spiritual ancestors of modern Europe, and that no education could be regarded as a true education that was not based on a classical foundation. In these days of scientific progress, and when so much regard is bound to be paid to a type of instruction in the school which will fit the pupil for undertaking, immediately on leaving school, the responsibilities of life belonging to the type of life in which he finds himself in these days, the natural reaction takes place of insisting, perhaps unduly, on a higher value for scientific teaching. It seems to me that in the teaching of classics a great deal of time was wasted on what is merely the apparatus of scholarship, and on the other hand on the teaching of science too little regard was had to the extension of mind, the training and cultivation of the imagination to the making of what we call a whole man, a many-sided man. This debate in the French Chamber to which I have just referred concentrated largely on what was alleged to be the failure of the modern type of education, and the pendulum of French educated opinion is swinging back in favour of classical teaching as part of the general education of pupils up to fifteen or sixteen years of age.

I would advocate strongly that so far as regards an Intermediate certificate the conditions should be a satisfactory attendance for a full number of years at a primary school, followed by at least three years in the secondary school, in which the education imparted would be of a general type—for example, two foreign languages, preferably English and French, or English and German, a fair amount of Mathematics, some Chemistry, and an introduction to a knowledge of Economics and of Civics. That would not be an overloaded programme, and the overloading would be avoided by choosing systems which have hitherto contained a great many things which, however valuable they may have been in

the 17th or 18th century, I would respectfully suggest are largely out of date. The aesthetic sense of the pupil can be awakened, and the first lines of training attempted on the basis of modern literature. There are people who will ask you to believe that all that has been of best thought and best study in the world belongs to ancient days, just as you are to believe that all the great paintings are old masters. There is room for another opinion upon these questions, and I would advocate that an introduction to the thought and style of the aesthetic aspects of literature, and all the culture that comes from that side of training, could be at least equally provided by masterpieces of modern literature, particularly of French. Unfortunately, while I am dilating upon the splendid prospects of secondary education under the new regime, I am conscious all the time of one blot on the fair picture, and that is the position of the teachers, especially of lay secondary teachers, through whom the great work is to be carried on, the practical side of education as distinct from this work of the educationalists.

I have here a document sent me on behalf of the lay secondary teachers. It lays great stress upon what so many of us emphasised on a former occasion—the wretched status and the wretched pay of the secondary teacher. The intermediate Board, amongst its other good deeds, saved the genuine Intermediate teacher from one great evil. There was a time, not so long ago, indeed, when anyone on his way to a profession took up secondary teaching as a *modus vivendi* on the way. He was an amateur, and never meant to be anything but an amateur, untrained, without his heart in the work, and he meant to abandon it as soon as he could. There was introduced in 1918 a State system of registration of secondary teachers. The conditions demanded there were of considerable severity. For a school to get the full grant it should be staffed with men in sufficient numbers who had a University degree, a diploma in education, and three years' experience of teaching. These are exacting demands to make, and one might fairly well expect in equity that the teacher who satisfies these demands, and gives of his best services to the nation in the work of a secondary teacher, should have a higher rate of remuneration than the ordinary Metropolitan policeman.

[Professor Magennis.]

This is a subject on which I cannot speak with moderation, and I find it difficult to refrain from using the language of irritation. There is no part of the world except, I should say, in the Western States of America, where it is more necessary to make education respectable than in our own country. Our people through long tradition are pretty like the French. I do not like to say too much on this matter, and very little would be too much, but I do think that they are impressed very considerably of the worth of a thing by what they see paid by way of respect or otherwise to those who are identified in their minds with that institution. Now, secondary teachers are not able to impress the imagination of the populace by the social position which they occupy. They are in quite as bad a position as professors. Professors are a despised class in this country, and I say that without fear of contradiction.

Everyone knows there are two tests of the height of civilisation to which any country has progressed—the position of women in it, and the respect that is paid to learning in it. In one of the Western States of America a little while ago a man of Southern State extraction was invited to a levee, where he was to meet a very distinguished negro preacher, a Doctor of Divinity. A Southern friend protested against his presence there, and inquired of him how he had addressed the distinguished ecclesiastic. He said, "I did not like to be offensive to him, and so I did not call him Sambo; and I did not like to sacrifice my principles with regard to niggers, so I compromised and called him Professor." The secondary teachers' remuneration is of enormous importance to the future of education, because here, as elsewhere, you cannot expect any but enthusiasts to take up an arduous line of life, devote themselves to the work, and be satisfied with less emoluments than their capacities would entitle them to in some other occupation. Enthusiasts join religious Orders, and they teach for the honour and glory of God. If you are determined to exclude the laity from educational work, then you cannot adopt a measure more calculated to be successful than to keep down the level of salaries of the teachers to its present level, £180 to £230 per annum. That is the average rate. There is no security of tenure. The se-

condary teacher goes on his summer holiday, and he has no assurance as to how long that holiday will last. He may never go back to his school. Security of tenure, assurance of employment; look at what that accounts for with the working man. Everyone interested in sociological problems is aware that there is nothing more destructive of efficiency than unemployment. Next to unemployment in that regard is the dread of it. There are no pensions for these men. It is not the Minister that is to blame, nor the Ministry of Education, for this. Yet there must be someone to blame. Are these men the victims of cosmic operations merely? They are the victims of economic and other considerations, and I suggest that the public are at fault, and the section of the public most particularly at fault are the parents of the children who are satisfied to derive these great and lasting benefits from the work and self-sacrifice of this class of men, and who go on with equanimity year after year contemplating their disabilities and profiting by them.

If we propose a grant in aid to these men there would be a howl from public representatives that the Exchequer was being drawn upon unduly, and that the taxpayer was being burdened. But the taxpayer ought to be burdened. Education should be a first charge upon the Exchequer of the country; it is the basis of all future progress and future development. There is an idea abroad that secondary education is for the middle class, more particularly the upper middle class, and that it has no concern whatever for the people at large. That is an altogether mistaken view. Altogether mistaken. If education of a secondary type was at the disposal of the middle class until recently, that was merely because of the reign of the bourgeoisie. We are making a new State here. We are advancing on lines which we hope will be characteristic of our own civilisation. We intend to shut out no avenue or career to brains. Anyone who can purchase the highest type of education and places himself at the service of the State in its higher offices should be free to do so. All we want is the removal of all barriers; equality of opportunity—and equality of opportunity is one of the principal tenets of democracy. If the schools of Ireland of a secondary type are to be efficient the

teachers must be paid. How are they to be paid? It is quite obvious that if fees are to be raised we block the entrance into these schools to the sons of poor men. Therefore the obvious way of coming to the relief of these schools is so obvious that it does not need to be pointed out. It is a sad thing that year after year in Ireland the same plea has to be made. Either we intend—I say this in all seriousness as the dilemma that ought to be put to the Irish people—to shut out lay teachers from the secondary schools altogether, and we will not allow education to be a profession for a layman to engage in, or if we do, then we shall not have him, year after year, subjected to this disability which interferes with the efficiency of his work.

Mr. SEARS: I do not propose to add any additional argument to the case for the teachers made by Deputy Magennis, because he has covered the whole ground and no new argument can be added. But I feel so strongly on the point that I would like to support the case he has made. I think it is my duty as a Deputy to underline the case that he made for the secondary teachers. As regards that humorous American story that he told us when the visitor took the middle course and called the Bishop a professor, I think if he had to deal with the poor secondary teacher in Ireland he would have no hesitation in calling him Sambo, because he was on the bottom rung of the ladder. I do not agree with Deputy Magennis on one point. He said the responsibility lies upon the parents. I cannot see where the parents are to be blamed any more than any other citizen. All the citizens of the Saorstát are equally at fault in this matter, and the Government cannot escape its responsibilities. At present they occupy an inconsistent and illogical position regarding secondary teachers. The primary teacher has to have certain qualifications before he can teach the pupils going to his school. Then the more advanced pupils require teachers with higher qualifications, and the State has stepped in and said to the secondary teacher, "Before you can teach in a secondary school it will not be sufficient for you to have all the qualifications of a primary teacher. You must have additional qualifications, and though we call upon you to have superior qualifications to the primary teacher we will see that you do not get half the salary that he gets." The

position is very illogical altogether. If you go to the Army you will see instructors there for teaching private soldiers; you will also find instructors for teaching the officers, but the instructors in the one case are paid considerably more than in the other case, as is natural and reasonable. So with all the other professions. But when you come down to the secondary teacher you find that he is not at all to be on the level of those who have less to do and less onerous work. Why should not the secondary teacher get even the salary that the primary teacher gets? The want of security which has been referred to by Deputy Magennis is a very serious question; it has a most unsettling effect upon the teacher. He is on the eleven months system, like the grazier's bullock. He does not know what is going to become of him at the end of his time. I met secondary teachers time after time, and it was painful to hear them complain of the uncertainty of their future. A number of the establishments in which those men and women teach are, no doubt, private establishments, but these men and women are doing national work; the State has recognised that, and the State has that responsibility and must face it. Those people must be put on a proper level.

With regard to pensions, they are in a very bad way. You give a better salary to a man you send down the country as a Civic Guard than you pay to the secondary teacher, and when the Civic Guard has spent his life looking after publichouses, collecting "drunks," and all the other items of his varied profession you give him a fine pension, but the secondary teacher gets no pension. If I were asked to look around for a man under whose paternal care I would place the secondary teachers I would not go beyond the Minister for Education. I am sure there is no need for Deputy Magennis or any other Deputy to commend the hard case of those men and women to him, but it is necessary all the same for Deputies to emphasise the injustice of the position in which those men and women find themselves. They spend their lives in very hard and trying work, and they should be decently paid. They should have security, and they should have a pension. They are engaged in work of a national character, there is a national responsibility, and we should see that they are treated fairly.

Mr. O'CONNELL: This question of the position of the Intermediate Teachers is not a new one. It is well the Dáil should know that it is only a few years since the State recognised that they had any responsibility whatsoever to lay secondary teachers. Before that time these teachers were employed by private individuals, or people who conducted schools and got certain grants in aid of such schools. They were free to employ these teachers, or such persons as they wished to employ, irrespective of the qualifications of those persons, and at whatever rate of remuneration they could get them to accept. Some seven or eight years ago, after considerable agitation, the State did come to recognise that it had some measure of responsibility to these teachers, and it made certain provisions—altogether inadequate provisions, as everybody knows and as everybody admits—to meet those responsibilities. Early in 1921 the position had become so desperate that a conference was convened of the heads of the various Intermediate Schools in the country, in consultation with the Intermediate Commissioners, and this conference agreed upon a scheme. A scheme was submitted to the Government. Unfortunately, so far as the scheme was concerned, it coincided with the time when the government of this country was about to be transferred to the Irish people, and so the British Government did not proceed with it. The Secondary Teachers naturally expected that when their own Government would be established one of the first things they would do would be to take up this question of Secondary Education and the Secondary Teachers. I think it will be admitted that the Secondary Teachers as a body certainly did their part in bringing about the state of conditions which made the Free State possible. In the Northern area their difficulties in setting up a new Government and a new Administration were no less than they were here. The Northern Government within the last year has introduced a very comprehensive Education Bill, and has made ample provision for Intermediate Education and for the Intermediate Teachers. It has set up a scale of salaries and pensions—or it is about to set up a scale of salaries and pensions—and this scale will come into operation as from the beginning of the last school year, 1st September. Speaking some eight months ago or more,

when this Vote was under discussion in the Dáil, the Minister for Education (Deputy Professor MacNeill) said:—

There are three points—salary, tenure of office, and pensions—on which I do not think there is a single person alive who, speaking conscientiously, would deny that in these respects the position of Secondary Teachers is gravely unsatisfactory. I do not say it with regard to justice, with regard to the men and women concerned, but in regard to the public interest and the right education of their children.

These are the three points which have been referred to by Deputy Magennis and Deputy Sears, and they form the three principal claims made on behalf of those teachers. There is no question whatsoever that the gravity and unsatisfactory state of the position of the Secondary Teachers has been admitted by the Minister for Education on various occasions and by every Party in the Dáil. But nothing has come of it. It is really heartbreaking to find that when a case is put up to the Minister or the Government the grievance is admitted, but nothing is done to remedy it. No steps are taken by way of remedy. I think it was Deputy Professor Magennis who stated earlier that if it was proposed to increase the provision made for Secondary Education, it is quite possible a howl would go up from the people. I do not know on what he bases that assumption. As a matter of fact, many public bodies, as the Minister for Education knows, have submitted resolutions to him during the past year calling special attention to the position of Secondary Education and of Secondary Teachers, and urging strongly that some remedial steps should be taken. If we can accept that as any evidence of the feelings of representative people on the matter, I think there is no danger that there would be any protest from any quarter such as the Deputy would seem to anticipate.

A year, or practically a year, has passed since these Estimates were last before us. On every occasion on which it was possible in the Dáil the position of Intermediate Education has been discussed. From all sides there has been general agreement that it was necessary to do something. Yet nothing has been done. I do not see how the Dáil would be justified in passing this Estimate as it appears before us, and, if I am in

order, I would propose that it be referred back for further consideration. That is the only way the Dáil can show its mind in the matter. There is nothing to indicate that we may not come here again in twelve months time and find just the same work before us. A long list of Bills was put before us yesterday, but no hint was given of a reform in this blot on our educational system. I content myself, therefore, at this stage with moving that this Estimate be referred back for further consideration.

AN CEANN COMHAIRLE: The amendment is that this Vote be referred back for further consideration.

Mr. GOREY: Some short time ago I had occasion to stand up here and draw attention to an Estimate in connection with primary education. In doing that, and in making the remarks I then made, I had in mind this particular Estimate also. I knew the salaries of secondary teachers were only from £180 to £220. I also knew that they had no security and were not entitled to any pensionable rights. What I objected to in the last Estimate was not the money spent on education, but its unfair distribution. I do not think it is equitably distributed. When I was commenting upon the other Estimates, I knew that the salary the primary teacher is in receipt of ranges between £400 and £450, between the salary, Capitation Grants and other allowances.

Mr. O'CONNELL: How many?

Mr. GOREY: All of the first class standard. I knew that the female primary teachers were in receipt of £300, with a Capitation Grant added. I am referring to the first class teachers.

Mr. O'CONNELL: No such thing.

Mr. GOREY: I am in thorough agreement with Deputy Magennis and others who mentioned that the secondary teachers are not getting anything like a reasonable salary. They are not getting anything like justice; they never did. I knew that they were men with a higher standard of educational qualifications and that they were called upon to impart that higher standard of educational knowledge to the youth of the country. I knew that they were capable men and that they did impart it. I knew also that the standard of knowledge as taught

in the primary schools could be imparted by people with very little qualifications—A, B, C, D.

Mr. DAVIN: Is that the distance you got?

Mr. GOREY: The general practice is that when a young boy or girl reaches eleven or twelve years, they are sent to the secondary schools in order to get a better education. The people who impart that better education are not paid half as much as the teachers in the primary schools. This, in my opinion, ought to be made a national question; the nation ought to face it. I do not know that it ought to be faced in the way that some educational authorities in the Dáil advocate, and that is by reducing the number of primary teachers to about one-third, to get rid, as they say, of the duds. Some of our educational authorities here admit that half the number of primary teachers, or perhaps more, are duds. I have heard that expression used by some of our educational authorities in the Dáil.

Professor MAGENNIS: Name.

Mr. O'CONNELL: Name.

Mr. GOREY: Deputy Magennis was one. That might be one means of meeting the demand that is now being made in respect to secondary teachers. The other method would be in order, as I suggest, to distribute the funds more fairly, to reduce the salaries of the primary teachers and transfer the amount to the secondary teachers. I am not in favour of having a drastic reduction in the number of primary teachers. This course may be necessary in the minds of men who are capable of forming an opinion, but it is largely a question for the primary teachers themselves whether they will do with a smaller salary or prefer a reduction in their numbers by one-third or one-half. It is no uncommon thing in the country to find going into the homes of primary school teachers a sum of between £700 and £800 per year. The secondary teacher has no means of making this amount. His salary is a bald £180 to £220. I appeal to the Minister for Education and to the Government to devise some means whereby the secondary teachers will be put on a standard of decency and given the fair play that they have not been getting.

Professor THRIFT: I do not think any very useful purpose is likely to be served by a lengthy discussion on this matter, by repeating the battle of books on the floor of the Dáil, or even by passing the amendment which Deputy O'Connell has moved. I dare say what he desires to get is the same as what I desire to get. I think it is most important that we should get from the Minister for Education at the very earliest possible moment a statement that he is going to deal with this matter on legislative lines, and further, perhaps he might give us some statement of the general lines on which he is going to deal with this problem. I think, though I do not very often agree with Deputy Gorey in what he says about education, that there was a certain element of commonsense in his remarks about the matter being possibly dealt with by a re-distribution of the total Vote for Education. I am not at all sure that the Minister for Finance will be glad to hear him say that. In view of the income of the State, our Vote for Education is a smaller one than it ought to be. I am perfectly sure we do not get value for the money, for some reason or another. I am not approaching this matter in the way Deputy Gorey did, by thinking of the salaries of Primary Teachers as being too large, and that they are being over-paid for their work. The work they do is of such importance that it is impossible to over-estimate it, particularly if we are to have at the back of our minds anything like that equality of opportunity to which Deputy Magennis refers. I have always said, and I now contend as an obvious truth, that the most difficult teaching in the world is that which is given at the very commencement of a pupil's education. The very highest qualifications are really required in teaching the young. You cannot have a too highly trained body of Primary Teachers or of Junior Secondary Teachers. When the pupils get older, if they profit by what they have learned in the Primary Schools, they can get along by themselves. I do not want to minimise in the slightest way the work done by the Primary Teachers; neither am I going to spend time stressing the conditions of the Secondary Teacher. We have heard, and probably the Minister for Education will be the first to admit it, that the Secondary Teachers are working under impossible conditions, and as a consequence the State is suffering

the greatest loss and harm. By the harm that is being done to Secondary Education in the country by reason of the method in which it is worked we are losing the best of the Secondary Teachers. That matter is urgent, and should be dealt with as soon as possible, otherwise this drain of the Secondary Teachers will go on. I want to refer very briefly to this and to point out that the matter is even wider than as a matter concerning Secondary Teachers only. There is the efficiency of the school itself to be considered. The grants given to Secondary Schools have been really on the down grade. This is owing to two causes; the first is due to the amount of money available, and the second is owing to the number of pupils attending the schools. The grant per head to the schools has been diminishing rather than increasing. Then we have information furnished by Commissions, for example by the Commission that preceded the Macpherson Bill, and the admissions in that Macpherson Bill, that the conditions were intolerable, and should not be continued. Still the fact remains to be dealt with. I suppose I have experience now of 25 years, I am sorry to say, of many Boards and of some of the most successful Protestant schools in the country. I know very little, I am sorry to say, about the others. But I do know the conditions under which these schools have been trying to make themselves efficient. Before the war it was almost impossible. Since the war, with the increase in prices, it has been really impossible. That difficulty has been added to by the fact that the grants to the schools have been diminishing. I merely say this to point out that the matter is vital, and that it cannot be remedied without State aid. The schools have done as much as lies in their power by raising their fees to meet the demands upon their exchequer. But the whole difficulty in raising fees is to prevent the best of the young pupils, who ought to get the advantage of education, from getting those advantages which the Secondary Schools give. I want to give the best brains of the primary schools a chance to go to the Secondary Schools and, if possible, afterwards to the Universities. That cannot be done without State aid. I think it would be important for the country as a whole if we could draw from the Minister some such statement as I have suggested, that he would deal at the earliest

possible moment with this problem as a whole, and that he is prepared to bring in legislation to deal with it, Deputy Gorey once said there was too much education in this country. Now, that very statement disproved his statement. I contend that it is of the very first importance. We cannot afford to stint our grants for Education, whether for Primary, Secondary or University Education, or the various branches of technical education, in agriculture or commerce, and in technical branches of science. It is of the very highest importance to us, if we are going to make this country a sound business proposition, that we should develop our education on all these branches. If you want to make your agriculture a success it means that what you want is education on the best and most modern methods of carrying on agriculture. Unless you get that education in the schools or the Universities you will not make your agriculture in this country a sound business proposition. The Assistant Minister for Industry and Commerce the other day used some very wise words with reference to the needs for efficiency in commerce, and said that it was necessary that commerce and business should be carried out on sound modern economic lines. You will not have that done unless you have Schools of Commerce to show business people how modern methods are to be applied, how this business can be worked on sound modern lines. You want your technical industries to be developed by technical instruction. The amount of real technical instruction that is given in the country at present is of the very smallest kind. Most of the technical schools have to spend their time doing what is the work of the Secondary Schools. There are very few schools in the country where technical subjects are taught. I would suggest to Deputy O'Connell that he is not helping this subject by moving this amendment; it is not a practical amendment, and he should join with me in trying to get such a statement as I have indicated from the Minister for Education. That would be of real practical value now. I think it is urgently necessary.

Professor ALTON: I have a certain sympathy with Deputy O'Connell's amendment, but I do not think it would serve the purpose that he desires to effect. I do not want to go over the

whole field of education again. The abstract question of education is a very large one. I would like to press upon the Minister the immediate need of the secondary teachers themselves. They have very few friends. I am glad to see they have a new friend in Deputy Gorey, a most unexpected and welcome friend.

Mr. ROONEY: Their case must be a good one.

Professor ALTON: They have a good case. Unfortunately, however, the teacher has really few friends. To whom shall the teacher go? He cannot go to his pupils. As a body they do not think of his interests. The parents only try to get as much for as little as possible. That has been the history of education for 2,000 years. A schoolmaster 2,000 years ago complained that the parents wanted the children to know everything, to be taught everything, but they wanted to pay nothing. The taxpayer now is burdened, too, and he wants to pay as little as possible. In the meantime the unfortunate teacher is practically starving. He cannot do his work well. His task is hard enough as it is, but it is worse when he has to eke out his living by overtime, by drudgery, by private tuitions and other work. Some of them work 10 and 12 hours a day, and life becomes impossible for such a man. He cannot do his work well. I am not going to touch on the abstract work of the teachers or to foreshadow a scheme. We all know that there must be an examination of the education question in its full length, and some scheme born of this will probably be embodied in the Bill in the near future. The pivot of any educational scheme will be the secondary teacher. He is the man who gives the fine polish to the work of education, for he picks out the flower of the intellectual crop of the year and despatches them to the professions or the Universities. One of the real resources that we have got is the brains of our people. The secondary teacher, too, is a man who discovers the pupils with talents and puts them to the best work. Now, I wish to say that I do hope the Government will see their way to promise something like a supplementary Vote. When I saw that Vote for secondary education this year the same as the year before, I could not help thinking of an incident in "The Old Curiosity Shop." You remember where they

[Professor Alton.]

were feeding that unfortunate servant, and Dick Swiveller saw Miss Brass going to the safe, bringing out a leg of mutton, and making a great array of sharpening a carving knife, and then cutting off two square inches of meat. "Do you see that?" said Miss Brass. "Yes," said the Marchioness. "Never say you do not get meat in this house; eat it up," said Miss Brass. "Do you want any more?" asked Miss Brass. "No," said the Marchioness. They were evidently going through an established form. I cannot help thinking that in this Dáil we are going through an established form. I really hope that the Minister will be able to give another helping to the secondary teachers. I will not weary the Dáil by dilating on their needs; they are well known to you all. Nor can I cordially support Deputy O'Connell's amendment; but I would urge the Minister to indicate a hope to these, one of the most deserving classes in the community, of better things, and a hope of some immediate relief.

Professor MAGENNIS: I join with Deputy Alton in deprecating the procedure of sending back this Estimate, while I am at one with Deputy O'Connell in his aim. What we all wish is a promise, or a declaration, on the part of the Finance Minister of something in the nature of a supplementary grant. If that were given, it would be unnecessary to send back the Estimate. It is merely in that sense that I am opposing the amendment, and that, strictly speaking, is not opposition at all. When Deputy Gorey joined the alliance on behalf of education I could not help exclaiming, in Biblical language, "Is Saul also among the prophets?" His support and the support of his Party count for so much in this matter that I rejoice exceedingly. True, he used the support as a sort of shield from which he hurled darts at the primary school teachers. His method, then, is Biblical, like his new position. He would rob Peter to pay Paul. He accused me of referring to one-third of the National school teachers as "duds."

Mr. O'CONNELL: A half.

Professor MAGENNIS: One half. I must have met Deputy Gorey in some astral plane, and it was my astral body that spoke. However, that is not ma-

terial to the present issue. I think that there is one danger in this matter, that while time after time we must hark back to plead the claims for higher remuneration, the public will come to the conclusion that the dominant consideration with representatives of educational matters is money. That is one of the false positions into which, not once or twice, the advocates of education have been forced. We are made to appear in a false light. I am standing here again to have an opportunity of making a further plea for the teacher, and this time for educational freedom. It is true that Deputy Thrift is an educationalist—and we all recognise him as an educationalist of very high standing, wide experience, and immeasurable abilities—and with Deputy Alton, is not in favour of discussing questions of educational policy in the Dáil. Inasmuch as there is on foot so much of a reform by way of administrative work, I cannot altogether agree with him. I think there ought to be some criticism. To my mind forefront the question of the programme of studies set out for the schools; next to that the method of teaching; and after that, and an ancillary agency, the test of examination. Putting, as I do, in the forefront the question of the programme of study, it is most necessary that freedom should be secured for the really excellent teacher, if not to frame his own programme of studies, under the supervision of the Ministry and subject to correction and advice on the part of the Ministry's inspectors, at least to give him a share, by way of criticism, in the preparation of the programme. The better the teacher the better the assistance he will give in this matter of what is a furtherance of national interest. If you cramp the teacher who is interested and capable, by imposing on him a very old and stereotyped programme you are doing him, his pupils, and his school an injury. You are wronging education. That was the great fault of the system that existed hitherto. There was a cast-iron programme devised in No. 1 Hume Street, sent out on a given day in the year, and from that until the day of the examinations battalions of little boys and little girls in all the schools were regimented accordingly. It did great work, I quite admit, notwithstanding the evil character attendant upon the provision of one programme for all boys and all girls alike. But now that we have a capable

body of administrators at work, and the full and complete articulation of all its members, a great deal can be done—a very considerable deal can be done—in setting educational work going upon appropriate lines. I believe that if the teachers were assured now that something in a spirit of sympathy was to be done for them to redress their financial grievances, if they were told that their work is to get freedom or expansion, and their personal initiative is to have full play—that their own personalities, in fact, are to operate not merely in the importing of instruction or the securing of results fees or the adding to the list exhibitions, but in the forming of character and the development of the spirituality of the pupils entrusted to them, in fact instilling in the pupils a sense of values which are the values of the teacher as a developed personality—if we were able to assure them of that, and that that was the view of the Dáil criticising the Estimate, we would have alleviated in very large measure the sense of grievance on the part of the teachers.

I know these teachers, and I know the professorial staff in the country fairly well, and while our constant outcry that their remuneration is not equal to the services given, it is not our pre-occupation. The fact is that just as one is often inclined to say about the poor that because of their poverty their patience is the most marvellous phenomenon they possess, the silence of those men—let me call it by its proper name—their extraordinary subservience to the conditions imposed on them, is what ought to strike the public mind. When a few of us are vocal with regard to their grievances, it must not be understood that the teachers are preoccupied with the question of salary; they are far more interested in their work and in the progress of education; and I believe, therefore, that if this message went out to them from the Minister on behalf of his Ministry that the teacher is to be for the future recognised in Intermediate schools, not as a retailer of goods, but is in his measure and according to the limits within which he works on education, that it would be exceedingly helpful. There are ever so many things that are militating against secondary education in Ireland. One is the poverty which necessitated the withdrawal of pupils prematurely from schools. Another is

the erroneous idea that secondary schools are intended to be a sort of vestibule to the Universities, and nothing more.

Professor ALTON: On a point of personal explanation, I think Professor Magennis is under a misconception with regard to one statement I made. I have no reluctance to discuss the question of educational policy, here or elsewhere, but I did not choose to raise this question on this Vote, because the case of the teachers themselves was so extreme that it seemed to me callous to launch out into theories and opinions.

AN CEANN COMHAIRLE: I want to remind the Deputies that the private business comes on at 2 o'clock. The Minister has not spoken, and the Deputy should be very brief if the Minister is to reply.

Professor MAGENNIS: That is why I stopped in the middle of a sentence. I am very grateful for the reminder.

Sir JAMES CRAIG: The Minister says he will give me a minute or two. I merely wish to support this appeal for better financial conditions for these lay teachers. One of the professors in Trinity College told me some time ago that the Head Master of one of the most important secondary schools in the country came to him and said: "Can you give me a first-class mathematical science master for our school; the school has been doing so badly in science at the Intermediate Education examinations that we are going to be wiped out if we do not get a first-class master?" "Yes," was the reply, "I can give you a first-class teacher if you pay him well. How much are you going to give?" "Well," he said, "£300 a year." The reply was: "I cannot give you a first-class man for £300 a year. I will get you a second-class man for that, but if you want a first rate man you will have to pay £500." They had a consultation in the school, and they arranged to give £500 to this first-class man. The result for science in his first year was extraordinary, so much so that they appealed for an assistant science teacher, and they said: "We cannot give so much salary for this teacher, we can only give him £150 a year." The professor said: "I can only give you a sixth rate man for that, but I can give you a second rate man for £300 a year." A second rate

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man was obtained for £300 a year, and the results were most extraordinary. Now, I say we can get no good results unless we get first rate teachers, and we cannot get first rate teachers unless we give them first rate pay. I have not the same knowledge and experience of secondary schools as some of my colleagues have, but I have knowledge of the men who come from the secondary schools into the professions, and I have a very intimate knowledge of the amount of the learning these men have acquired, and sometimes of the lack of it. So far as the professions are concerned, I say that if we want to keep up our professional status, we must have the men properly taught in the secondary schools, and again I say, if we are to have the pupils taught properly, we must have the teachers properly paid to teach. I should like to say, in regard to the necessity for proper equipment, that I should like the Government to see that there is sufficient equipment for teaching scientific subjects. Pupils can pass examinations well in other subjects, whereas in physics and chemistry, and such subjects as should be taught in the intermediate schools are practically being neglected. We have not been pressing the teaching of these subjects in the schools, because the ordinary English subjects are not to our minds sufficiently well taught at present. I know that the Minister for Education has in his mind that these intermediate schools should be allowed to develop on their own lines and, to a large extent, I would agree with him, and I would even agree with him to be content to do away with all public examinations if there was to be a proper examination of class work in the schools at the end of the year. One other point I should have liked to refer to at more length is, that many of these schools have been started as private schools in houses that were not suitable for schools at all, and as time went on the pupils increased and they were crowded together into rooms that were in no way fit for educational purposes, and the result is that too many of these schools generally are of a denominational character, whereas if one large school were equipped where these denominations could meet together, in my opinion, we would have less trouble and better feeling in the country than at present. Finally, I

should like to ask the Minister how much of this £30,750 is set apart for teachers, and how much of that actually gets into the pockets of secondary teachers; in other words, how much of it is used in administration and how much do the teachers get?

LIAM de ROISTE: I would suggest that the debate should be adjourned, if it be the wish of the Minister.

AN CEANN COMHAIRLE: I was not putting it forward that the Vote would be taken necessarily, but that the Minister might be heard before 2 o'clock.

MINISTER for EDUCATION (Professor MacNeill): I find myself in a rather pleasant position with regard to the discussion on this Vote. I should say that any Minister in charge of any particular Department of public administration must feel highly gratified when he finds everybody on every side insisting on driving and pushing him in the direction in which he wishes to go. I will not yield to the temptation of dealing with any of the general aspects of education that have been brought before us by successive speakers. It is a very strong temptation to me. I should like to make my own comment if I had time to think it over, but I have not exactly the same readiness of speech as many of the Deputies have. I should like to make my own contributions to the discussion on the more general aspects of education, especially of Secondary Education, but other occasions will be found for matters of that kind. With regard to the motion before us, to refer back the Estimate, I need not remind the Deputy who makes it, and the other Deputies, that these Estimates are in print and in the hands of the Deputies now for several months. These Estimates were made ready for the printers—and this is a matter which not a single Deputy who has spoken has noted—in circumstances which I do not want to discuss here at all. This country was being subjected to loss at something like the rate of a million sterling per week. It was in that situation that these Estimates had to be drafted. That was a very material consideration in the drawing up of the Estimates, and, having mentioned it, I will say nothing more about—shall I call it—the hyperplexus of the various Deputies who spoke. The difficulty, too, in regard to the proper payment of Se-

condary Teachers has causes which have not been mentioned. One would think when one sees this thing and hears it discussed that the only person to blame is a hard-hearted Minister for Finance or an indifferent Minister for Education. I do not say it was put forward here, but that point of view has certainly been given prominence to. First of all, one of the things to blame, in my mind, is the form of our education and its peculiar classification. We have been subjected to education in water-tight compartments—primary and secondary. One can see at once if those lines of division did not exist that it would not be possible for Deputy Gorey to draw a distinction between the scale of remuneration of Primary Teachers and the scale of remuneration of Secondary Teachers. I often asked myself what is the meaning of this primary business and secondary business. Why not tertiary or quaternary? What is the exact meaning of it? What is the object of it, and what purpose does it serve? I think that classification has a great deal to do with the present situation. You have two strictly divided bodies, which keep the people engaged in public education in the country on two totally different systems. There are other reasons. Deputy O'Connell told us that a howl would go up from the people and that public bodies have submitted resolutions.

Mr. O'CONNELL: I did not tell you that.

Professor MacNEILL: I am not referring to this in a hostile sense. I am simply quoting the words, because I want to make my own use of them.

Mr. O'CONNELL: On a point of personal explanation, I think it was another Deputy who used that statement, and I refuted it by saying that we have had public resolutions on the matter.

Professor MacNEILL: It is only the words I am concerned with. I do not wish to ascribe them to any particular Deputy. The solution of this question might be reached if something else, and not a howl, went out from the people, and if public representatives brought something to the solution of these difficulties beyond resolutions. It is evidently a matter of finance; it is a matter of financial provision. No resolution has reached me in favour of raising more

money for this purpose. With regard to the acuteness of public feeling, it is right for the Seanad to pass a unanimous resolution, as it did some months ago, on this subject, calling for better financial treatment of those engaged in secondary education, and it is right for members of the Dáil to show its unanimity—I think every part of the Dáil has been represented in the statements that have been made here to-day—calling for an improvement in the position of secondary teachers. These things are right; they are gratifying, but—if I may use the word—not enabling. I never concealed my own view with regard to this, and I suppose people are expected to change their views when they become invested with Ministerial appointment. My views remain the same; I think, as I always thought, that no teacher ought to be a casual hireling. I think that education is supremely the most important work that the nation has to take on hands. I do not think anyone can deny that to himself. If anyone here who has responsibility for children refers to his own case he will find that for him the providing of education in every shape and form for them is the supreme thing. If that be so for him, it is so for everyone else. Therefore it is so for all of us. But when people come to deal with these things from a public point of view they forget that. There is, I think, no exaggeration in what was implied in the illustration brought forward by Deputy Magennis that, while people speak in this way, they do not appreciate the work of teaching as they ought to do. I will give you proof of it. I hope that all our Senators, when they are drawing up their wills, will make as good and ample provision for education as for any other charitable purpose. I hope that the more or less wealthy people of the community, when they are also thinking of how their surplus wealth will be disposed of after they have passed away, will remember—what every testator of Ireland appears to forget—the interests of education. That is one of the reasons why the teachers in our colleges at present are in the position they are in. With all our talk about education, there is no country in the world in which the people of wealth and of means have done less for education than in this country of ours. If some small proportion of the surplus wealth that is disposed of in a

[Professor MacNeill.] variety of ways were directed towards educational purposes, the situation with regard to our secondary schools would be very different from what it is. The situation with regard to the Universities, about which we will probably hear a good deal later, would also be improved. I do not intend to make any statement with regard to the general principles of education, and I do not intend to make any statement with regard to future legislative proposals. I will confine myself to the matter before us. I am quite certain that if it were in the power of the Dáil—if they had the power under the Constitution—the Deputies would unanimously, or almost unanimously, bring forward over the heads of the Ministry, in case they were reluctant, a Vote for a substantial increase of the amount allocated here for secondary education, and make it particularly available for the salaries of secondary teachers. The question was put to me as to how much of this money goes in administration. I have not had time to make close, exact official enquiries, but I believe I can answer offhand—practically none. Any portion of it spent on administration is infinitesimal.

Mr. O'CONNELL: You are referring to the Interim Grant.

Professor MacNEILL: Yes, and to all the other moneys that go in that direction. As I have said, I am quite certain that if it were in the power of the members of the Dáil, under the Constitution, to make a substantial increase on this Vote over the heads of the Ministry, they would do so. It will not be necessary for them. I have the authority of the Ministry, and the authority of the Minister for Finance in particular, to state to you that it will be the duty and the pleasure of the Minister for Finance himself to propose a very substantial increase in the amount already set out in the Vote as available for the improvement of the salaries of secondary teachers.

Mr. O'CONNELL: In view of the very satisfactory statement made by the Minister—a statement which I am sure we were all glad to hear—I have pleasure in asking leave of the Dáil to withdraw my amendment.

Amendment, by leave, withdrawn.

Mr. O'CONNELL: The Vote, I presume, will not go through now?

AN CEANN COMHAIRLE: The Vote need not necessarily go through now. The reason for the amendment, I presume, was to discuss the particular matter on which the Minister has spoken.

Mr. O'CONNELL: There are some other matters to which I would like to refer.

AN CEANN COMHAIRLE: The Minister can move to report progress, and that will provide an opportunity for resuming the discussion.

Professor MacNEILL: I move that we report progress.

THE DAIL RESUMES.

Progress reported.

Debate ordered to be resumed on Tuesday.

DEVELOPMENT OF INDUSTRY—REGULARITY OF EMPLOYMENT.

AN CEANN COMHAIRLE: Under the Order for the special sittings on Friday, private business comes on at 2 o'clock. We will, therefore, take Deputy Johnson's motion.

Mr. JOHNSON: We have been dealing with a matter of supreme importance touching one side of the public life. It is my duty to bring before the Dáil another matter of supreme importance touching another side of the public life. It is, perhaps, even more urgent than the previous matter. The motion which I have to move, and of which I have given notice, is as follows:—

"That it is an essential condition precedent to the peaceful development of industry and commerce in the Saorstát that the workers should be guaranteed regularity and permanence of employment, and payment for their work at rates sufficient to maintain them and their families in decency and comfort; also, that it is the opinion of the Dáil that the Government should call into conference representatives of employers' and workers' organisations for the purpose of devising the best means and methods of providing such regularity and permanence of employment, with satisfactory payment for work done."

AN LEAS-CHEANN COMHAIRLE took the Chair at this stage.

Mr. JOHNSON: Naturally the country is disturbed by the present dispute in connection with the traffic at the quays. From time to time the country has been disturbed over disputes between employers and employed. Very frequently we are treated to lectures, appeals and pleadings for something to be done to avoid the interminable disputes, interminable strikes, and frequent locks-out. We are told that the future prosperity of the country is menaced, that it is impossible to build up a community, healthy and economically prosperous, while the danger exists of workmen ceasing work, and workmen refusing to bend in any way in regard to their trade customs and regulations. We are told frequently that the hope of peaceful development of industry in this country is baseless unless some change can take place, which would ensure that workmen would no longer be undependable, that strikes would, as a matter of fact, cease, and there would be no longer any labour disputes. I ask the Dáil to consider this matter very seriously, and to come to the conclusion that the chances of peaceful development are very small unless some assurance or guarantee can be given to workmen that their lives will be safeguarded, because, after all, you take my life when you take the means whereby I live. I want the Dáil to recognise this very important fact in this connection as in so many other connections. The question of education has been under discussion, and I think I remember that, in an earlier debate on that question, the Minister for Education laid it down that education as well as political institutions were means to a definite human end—the developing of a healthy, happy, human life.

I want the Dáil, and I think it is important for the public also, to recognise that even industry and commerce are not entities of themselves, and ends to which human activities should be directed. On the contrary, industry and commerce, prosperity in those walks of life, are only sought for because we want them to serve human ends. While that may seem axiomatic, and not necessary at all to refer to here, I am very much afraid that people have got into the habit of thinking of trade and commerce and industry as an end to which all energies should be directed, and that human prosperity, human happiness and human effort must be subordinated to something

called trade or to something called commerce. Now, the end of all and every industry is, as we must all admit, to feed, clothe, house and provide amenities for the people. I think that if that axiom is borne in mind it will not be difficult to persuade Deputies that the workmen who are engaged in trade, workmen whose occupation is to further industry and commerce, must incidentally to the commerce, but inevitably and with that definite forethought, be the first item for consideration and the first charge upon any industry or commerce. That leads one to this consideration, which is the kernel of what I have to say, that unemployment and the fear of unemployment is the greatest fear that the workmen have. The fear of unemployment, the need to promote the chances of employment, to protect their interests when in employment, and the defence against what they deem to be an attack upon those conditions, and their chance of employment in the future are the primary purposes of Trade Unions. Trade Unions were established and have grown up, and have always considered as their primary purpose and reason for existence to protect the interests of the workmen. When regulations concerning trades are made, when opposition is, as has so often been the case, offered to machine developments, it is always on the ground that the effect of the introduction of new methods is going to deprive the workmen of their chances of a livelihood, as in fact it does, at least for a period. Otherwise those labour-saving machines would not be introduced. It is this fear of unemployment that is the underlying explanation of three-fourths of the labour disputes, not all, but a great majority of the labour disputes. An important consideration that must be taken into account by the workmen, whether as individuals or as organised bodies, is the necessity of looking ahead and trying to conserve their chances of employment three months, six months, or twelve months in advance. When we bear in mind, then, that this fear, this sense of insecurity, is the great underlying cause of the great majority of labour disputes, I think it is clear that our efforts should be directed straight to the solution of the problem, and if it is humanly possible to remove that insecurity from the workmen's minds, then you are going very far to make possible a peaceful development of

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industry in the country. I believe it is possible so to organise the human resources of this country as to ensure that every man capable of working and willing to work shall have opportunities for work. Now, this problem affects probably not more than a half a million men. The security that I seek is provided for the man who has land. He may have to work very hard for a very little return. He may be compelled to make his own soil, as he has done in the past. But, having made it, he can at any rate, by the application of his labour to that soil, provide sustenance for himself and his family. It may be mean, it may be poor, as it is in these congested areas of which we have been speaking so much, but there is that ultimate security to the landholder against starvation. But this problem is the problem of the landless men, whether the country landless men or the town landless men, the proletariat, the propertyless man who is dependent for the livelihood of himself and his family upon the chances of the labour market. Now, those chances are very variable. Some men are fortunate. Some men are lucky enough to be placed in a position where they are insured permanence of employment, and where the amount of security is so great that the risks of starvation and the risks of hunger are small. There is a vast mass in this country, as in other countries, who cannot see two weeks ahead, and who do not know where next week's food is to come from. The very much greater number of them have not the slightest security for a livelihood three months ahead.

Because of that insecurity, they have been forced into a defensive position, and are obliged to say: "We must conserve our narrower interests, and we dare not, because of the insecurity, enlarge our vision until we find ourselves in a position to say there are no risks; we are assured of employment in the future, and with that security we can let our imagination and our impulses and our feelings have full play." I believe if you would understand the position of the workmen *en masse*, you would have to consider the position of the undeveloped societies, the hungry societies who cannot and do not give rein to enterprise because the margin of sustenance at their disposal is so limited. It is only when, by virtue of good fortune and good harvests, luck

is the hunt, that ample provision is made for the future, that they can allow rein to their energies and their enterprises. I want to bring about the same position for the workman. I want the workmen to be able to say: "We are secure against unemployment; we are guaranteed that if we do work that is put to us we shall not want, and our families will run no risk of hunger; insecurity, so far as it is humanly possible of achievement, has passed." Then men would be justified in demanding a full measure of social service from all, and demanding a removal of many restrictions that impeded the progress of industry and commerce. I believe until you give that assurance it will not be possible to call for that output, for that removal of restrictions, and for that increased effort in time of emergency that in a community of citizens of good will ought to be possible. I am putting it to the Dáil that we ought to accept this proposition as a responsible National Assembly, so that the workers of the country should be guaranteed regularity of employment, or, failing that, maintenance for the work which they are willing to do, but which the organisers of industry have not been able to provide. This is not a revolutionary doctrine. In essence, if looked at from a slightly different angle, it is already in being through the Poor Law Institutions, but unfortunately wrongly, Poor Law administration was conceived and carried through as though poverty and destitution were offences which ought to be punished. We do provide some kind of State guarantee against starvation by hunger, and we impose upon citizens an obligation to accept of that sustenance which the law places at their disposal.

We want to get away from the atmosphere of the Poor Law, and we want to say to workmen that our energies, our organising ability, and the resources of the State will, if necessary, be called in so as to ensure that every workman will be guaranteed useful employment, employment for the common good, productive work, useful service, and will be paid adequately for that service. I believe this proposition, if it were tackled as the problems of defence and problems of a similar kind have been tackled in this and in other countries, could be successfully dealt with; but it cannot be successfully dealt with if we are going to look upon it merely in the light of an

extension of existing systems. It may mean that we shall have to face certain consequences, but I am not asking the Dáil, in this proposition, to commit itself in the slightest to any conception of future social order. I am not asking the Dáil to alter its view of what kind of a State this should be. I am asking the Dáil to accept this as a fundamental proposition, that men willing to work, who have not the means of work, and have no land on which to work, must be guaranteed the opportunities to do useful work at reasonable pay. The two great industries which have been most seriously affected by labour disputes in recent years have been the building trades and the transport trades. The numbers of men affected in those trades are not unmanageable if organisation was looked at seriously. Probably 30,000 men in the building trades, apart from odds and ends, and probably 40,000 or 50,000, taking all the transport trades, including the railways, cover those two big industries. I put it to the Dáil that the problem of the organisation of all the men engaged in those two branches of industry is not insuperable.

The men engaged in manual work, the men engaged in the direct work, could, if they put their minds to it, contrive to assess the amount of human energy that is required for the annual output in those trades. The labour is there; the men are there; the capacity and experience are there; and society has, by one means or another, so directed itself that 30,000 men have set themselves to the occupation, say, of building. I say it is our duty, as a State organisation, to induce, if possible, those to whose care has been committed the organisation of the building trades, to ensure to all these men in the building trades that their work would be well directed and would not be wasted. This is the problem of the elimination of waste, and I want to say that the organisers of industry who claimed that title, which ought to be a proud one, have to justify their claim and have to organise, or assist in the organisation, of all that energy and experience, and direct it to the building of houses primarily, and other buildings at the same time. But they have no right to expect to have at their disposal thousands of men just when they require them. It is not impossible to estimate the requirements of building for five years ahead

It should be comparatively simple in this country. We know what the housing needs are. The Minister for Local Government and the President know that. We know, within moderate limits, what the needs are in respect to public works. We know what the capacity of the country is, and I say that there ought to be some means of fitting the needs with the capacity to supply these needs, and that means the organisation of the men in the trades. So it is with transport. What is the procedure? We have frequently come across a position something like this. A ship comes into a harbour. It is required to be discharged, and some hundreds of men are wanted on the spot. They are required to work night and day, and to be available to work night and day until she is discharged, because it is too expensive to keep that ship lying in dock. I ask you to bear in mind what that means. It means that it is of much greater importance to have 500 men available, waiting on the rota, unemployed, to be ready to discharge a ship that may come in on any day, because a ship cannot be kept waiting. That is topsy-turvydom. Surely it is more important to have men employed, to have men regularly organised, whose life would be comparatively regular, even though that ship has to wait for two or three days longer for discharge. But with organisation there is no necessity, I would contend, even to delay in the discharge of a ship of that kind.

I submit that the problem of casual labour and the method of decasualisation of labour ought to be taken in hand both at the docks and in every other occupation, and I believe that, notwithstanding that many men are opposed to any attempt to decasualise labour, thinking that it is chancy, no doubt, and sporting, and gives them an opportunity to have a flutter occasionally, I believe that for the social good decasualisation should proceed, but it can only proceed if it is accompanied by a guarantee of employment. I am asking that the Dáil should accept this view, and, having accepted it, that then the representatives of employers' organisations and workers' organisations should be called into conference and be told that this being the view of Dáil Éireann, it is their duty to find the best means of achieving this end—this end of the organisation of the industry of the country, the regularisation of

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the labour of the country, and the adequate payment for that labour. We shall be told, no doubt, that industry cannot stand the present charges. Wages must come down, conditions must be altered, labour must be more malleable and elastic in its demands. Well, I answer, for my part, that when these essential conditions are secured I am prepared to do everything that one man can to achieve the rest, but until these essential conditions are assured I say it would be disloyal to workmen, it would be suicidal for workmen, to give up their only protective measures and forces. We are all hoping and believing that it is possible of attainment, that there is no necessity for workmen in this country to have to follow the market of labour in other countries, and we think that this country is living in a fool's paradise if it expects that there will be an accommodation of that kind; that all that is to be done is to say, "Somebody else in another country is working cheaper than you are working, and therefore you must adjust your prices to theirs." High wages for three weeks and no wages for two means low wages for five, and that is about the condition that so many men find themselves in. I would like the Dáil to agree with me in this, that there can be a reorganisation of industry, that labour can be well protected, that improvements can be made in the conduct and administration of the industrial machine, that employers can learn how to direct their industries very much more efficiently than they have yet shown any signs of; that these things can be done when the foundation is laid, that a workman is not running the risk of unemployment in a week, two weeks, or six months. Give us this guarantee, and then we can see what are the best means of arriving at that end. I ask the Dáil to accept this motion.

Mr. MORRISSY: I formally second this motion.

Professor MAGENNIS: With the larger part of this exceptionally weighty utterance of Deputy Johnson I find myself in complete agreement; I mean by the larger part the larger in the bulk of matter that it presents for thought rather than merely the larger part of it as it would appear to the reader of the speech. Deputy Johnson has gone back for his

first principles to that mediaeval Christianity which it has been so long the fashion to deride.

CATHAL O'SHANNON: Who derides it?

Professor MAGENNIS: Modern civilisation, which is so boastful of its own alleged achievements, derides it, but modern civilisation has found its complete refutation in the Great War and the consequent upheavals in Europe. There the great test was applied to a materialistic so-called civilisation, a civilisation based on the egotism and egoism. As regards the relation between labourer and employer Deputy Johnson goes back to what is taught in the Catholic catechism, which is not ashamed to preserve the doctrine of an earlier age, "Masters, do to your servants that which is just and equal." That is our theory now, though I prefer to say nothing for the moment about our practice—

Mr. JOHNSON: Hear, hear.

Professor MAGENNIS: When, notwithstanding our catechetical lectures and instruction, we find ourselves later in life investors of capital and employers of labour. But it is with the doctrines as enunciated by Deputy Johnson that I prefer to deal. I think it is time for this Dáil, on behalf of the Irish nation, to express itself here and now in favour of a type of civilisation wholly different from the Teutonic semblance or simulacrum of civilisation which has been operative in Great Britain and Ireland and through the German Empire since the 17th century. Deputy Johnson spoke of waste. Unless we are willing to take the attitude of Cain and ask "Am I my brother's keeper?" how can we look on at the social shambles that this competitive system creates, this horrible waste of humanity, and look on and feel that we have no share in participation of guilt? We are all guilty, as the phrase runs, of brother's blood so long as we raise no voice of protestation. The waste is incalculable, and, what is still worse, the waste is irreparable. There is a very fine poem written by a Labour laureate to replace "God Save the King."

"When wilt Thou save the people, oh God of Mercy, when?

Not thrones and crowns but nations,
not kings and lords but men.
Flowers of Thy heart, oh God, are they,

Let them not waste like weeds
away,
We are their heritage of sunless
day.
God save the people."

Now, that expresses my conception of the prayer that should go from all of us who feel the social unrest that we lament around us everywhere to-day. The awful phrase was used again of "the labour market." We did away with the slave market in name. What is the labour market as we know it to-day, as described by Deputy Johnson, as regards its by-product, if not its intentional product, of casual labour? "The world is out of joint," says Hamlet, "oh cursed spite, that ever I was born to set it right." That "cursed spite" has come to the Parliament of Ireland, for we must do something to set right the social dislocation of the country. It is one of the great problems that concerns the Parliament. Deputy Johnson asked us to guarantee regularity and permanence of employment. I wish we could guarantee it. I took a note that he said it must be guaranteed, and I substituted that it ought to be guaranteed. At a time when there is so much talk around us of a General Election, one's memory naturally harks back to one's election address and the pledges made in it. May I egotistically recall a passage of mine? I undertook to support—it was regarded as an eccentric thing on the part of a University representative—all legislation that would tend to humanise labour. I received a letter from an unknown correspondent, dated from Cork.

"I see that you intend to humanise labour," ran the letter. "If you can persuade labour to work you would go down to history as an immortal statesman." I undertook to support—and I am carrying out my undertaking—everything brought forward here that tends to humanise labour. That is our Christian profession, that we regard humanity as God-like, and that everything in the system under which a human being lives his life that tends to degrade him from the high level of personality is evil, and is to be stamped out. The human being is entitled to live his life under conditions that are consonant with his status of personality. These are sometimes ridiculed as the doctrines of the visionary. They are part of the Gospel that Christ came here to preach, and I am quite satisfied

to be ridiculed as a visionary so long as my doctrine or my profession is in accord with that Gospel. We forget too often, because we see a mechanism gone astray, what was its original purpose. Society, as I spoke of it the other day, is intended to provide that environment, that set of surroundings, opportunities and safeguards which will enable the individual to develop himself in the highest measure to realise all that it is in him to become. Society exists for the meanest individual for that purpose, as well as for the most exalted. It does not follow that because a child is born under conditions of poverty or of destitution that he is to be kept, when he grows to adult manhood, as a mere slave or instrument for the creation of another man's wealth. We have the spectacle of one portion of the community, describable as the idle rich, rolling in luxury, and the majority of the people worse housed than the cattle, and living with that dreadful insecurity which only a miracle, it seems to me, can save from producing either insanity on the one hand, or crime on the other.

I remember on one occasion, during a holiday, having the pleasure of visiting one of the most beautiful places in the world—Isabela and Lago Maggiore. Where I landed was one of the most squalid fishing villages imaginable, and through that I found my way into the gardens of the Count Borroméo. It was an earthly paradise overlooking the lake to Stresa. In those gardens was every type of beautiful vegetation. When I looked at the castle of the Count and these superb grounds and looked down at the little dark, noisome narrow lanes in which the population of Isabela was confined, I could not help—I make this confession frankly—thinking that if I were one of these men some night I would make my protest. A few years ago—I remember I mentioned this to the Archbishop of the place when I had the honour of meeting him—in San Francisco, an anarchist went into a Catholic Church and shot the priest on the altar rails while he was giving Holy Communion. I pointed out to the Archbishop, and some American Bishops who were with him, that all that was wrong with that man was that in his action he was too logical. This man felt that, were it not for the preaching of our priests of the doctrine that in another world they would be compensated for the harsh and cruel

[Professor Magennis.]

treatment they undergo here, that they would rise up and pull down, some day of mad destruction, the whole fabric that victimises them.

I hold, and I hold it strongly, that it is the duty of everyone who is interested in the preservation of society, who is an opponent of anarchism, to profess those doctrines not merely by lip service, but by actual conduct. It is the only way to save society. The doctrine that Deputy Johnson has expounded, in the larger portion of his speech, is utterly opposed to the doctrine of class warfare, which is the weed that flourishes when the materialistic conception of life is allowed to replace the proper conception of human values. It is useless for men to write books exposing the fallacies of Carl Marx. It is useless for lecturers to make us shudder with horror at the accounts of what revolutionaries have done in mad protest against the system that wrongs them, unless we are prepared to show by constructive work that the doctrines we hold by and stand for can be worked out into institutions, the operation of which would be to provide the attainment of those ideals and the realisation of those advantages for which the anarchist is so anxious.

While I agree with Deputy Johnson, that conferences should be called, that, in fact, a permanent system for conferring should be set up, to avoid the destructive methods of labour warfare, I think that when he asks us to guarantee regularity and permanence of employment, he is asking us to do what, in the circumstances that exist, we cannot do. It would not be honest if we were to pass a resolution with the words "we guarantee," because we have to renew "a clean heart and a new spirit" in society before the Government would be in a position to give such a guarantee as an effective thing. That is the trouble. If he asked us to proclaim our faith in such a system, or to assert the right of the Government to make a reformation, I would be with them. I have spoken on another occasion on an aspect of this problem which I would like—only I am detaining you quite too long—hurriedly to bring before you. To reform one defect in the system of investment and the responsibilities that it brought with it, of which Sir Walter Scott was a notable victim, the laws were altered

under the control of which Joint Stock Companies are floated and run. That has brought about impersonal relationship between employer and employed. If A.B. invests his money in Mexican Oils, or in some far-away company, he has no opportunity of knowing or of assuring himself what the conditions are under which the dividends he is glad to receive are earned. The ideal demand would be that he should not take those dividends unless he were satisfied that they had been honestly distributed. But in the nature of the case, from the circumstances that prevail, it is impossible to make those investigations, or to discover whether one is really reaping the fruits of villainies perpetrated without his knowledge, or whether he is receiving results honestly achieved. The whole world would have to be reorganised. The whole system of investment and employment would have to be changed from top to bottom. As I put it in Biblical language, "A clean heart and a new spirit would have to be created" before it could be done. As we cannot build a great wall of China round our country, and as we cannot keep ourselves out of international relations, the utmost we can hope to achieve is to secure within our own dominions, within our own realm of operation, a better scheme. But we could not guarantee.

At the same time, I think that Deputy Johnson has rendered an enormous public service in coming forward with a resolution so worded and so expounded by him to-day. As the leader of the Labour Party, I, as one humble member of the Dáil, would applaud him to the echo. He has dissociated himself clearly and unmistakably from those who espouse the class war doctrines. He has taken sides with the sane reformer who seeks to remedy appalling abuses by the application of correct thought. That is a great national service, and it is because I sincerely believe he has done that service that I have taken the trouble to add to my increasing volume of unpopularity in this Chamber by making another long speech.

CATHAL O'SHANNON: Deputy Magennis has agreed with the greater part of the argument put forward by Deputy Johnson, but he sticks at the conclusion. However welcome it may be to us to find Deputy Magennis again returning to the paths of virtue and justice,

not to say of good sense, it would be still more welcome if we found him agreeing to the only practical conclusion that is to be drawn from the very premises with which he has expressed such hearty agreement. In this country, as in other countries, there has always been too much expression of sympathy and agreement with principles without a corresponding effort to put those principles and that sympathy into practical form. Deputy Johnson's motion calls for a conference for the purpose of devising the best means and methods of providing regularity and permanence of employment and satisfactory payment for work done. Deputy Magennis says it is not possible in all the circumstances to guarantee such permanence and regularity of employment. On the contrary, I maintain that on the very basis of the philosophy which he has been expounding here—which I, for one, have no hesitation in admiring, even though it comes from a much earlier age—every individual according to his needs and according to his wants has a right to a livelihood unless by the conventions of States he is deprived of life or of livelihood for some crime. If that be so, it must follow that society must provide him with the means of livelihood, and, unfortunate though it may be, or fortunate in the view of other people, the only avenue to a living or to a livelihood that the great majority of people have is through some sort or kind of employment. I maintain then—and I think Deputy Magennis, if he comes back to his sources, and not only to his sources but to the modern interpretation of them—will find that there is an obligation on the State itself to take such means and such measures as will provide for the common well-being of the citizens. For that reason I hold that there is an obligation on this State to find the ways and means of guaranteeing what is asked for in this motion.

It is not sufficient to say that we cannot guarantee. We can guarantee if the proper methods are taken, and if the proper spirit is shown by those in whose hands largely the power of guarantee lies. But here, as elsewhere, you have a large section of the people in whose hands that power lies neglecting their first duties, I am not going to say merely as Christians, but their first duty as citizens, because their one aim, their one object, their whole desire in life, is to do nothing but to build up something

for themselves at the expense of other people. There are riches in the Saorstát, there is wealth in the Saorstát, there is intelligence and there is ability in the Saorstát, there is recuperative power in the Saorstát, but there is a minority in the Saorstát that controls the means of life to a very great extent, and they are not willing, up to the present, to surrender their control in the larger interest of the citizens, unless and except they can gain out of it something which the general body of the citizens cannot gain. Deputy Magennis knows perfectly well why there is distress and conflict between the different classes here as elsewhere. And he knows as well as any of us, that now, above all times, there is a moral obligation on every citizen of the State to make such sacrifices as are necessary for the common interest and the common well being of all citizens of the State. No one in this Dáil will deny that the general body of workers, whatever their faults may be, and they may have faults as individuals, and faults, perhaps, as a collective body, they have not hesitated to give more than what is their right, and they will not hesitate to make such arrangements, and to make such sacrifices and to bear such suffering as may be necessary. On the other hand they see those who control their very lives not getting appreciably poorer, not divesting themselves of any of the better things of life, but on the contrary making use of much of the wealth that the workers themselves have helped to create and to contribute to, giving themselves a better time and an easier mode of locomotion, and a finer and an easier living and livelihood. Further, we find them if threatened with sufferings or with sacrifices a little bit out of the common with something that they and their fathers were not faced with, until within the last few years, threatening, and in many cases carrying out their threats, to clear out of the country from which they have drawn all their sustenance, threatening and carrying out the threats that if the workmen will not choose to accept just what they give, then they will close down their establishments and throw the workman on the mercy of the State. Against this there is no practicable proposition, there is no practicable conclusion to be drawn except the conclusion that Deputy Johnson has drawn, and that

[Cathal O'Shannon.]

is that it is the duty not only of the body of the citizens, not only of every section of the citizens, but of the State, as the expression in a certain form of the whole body of the citizens to find a way and a means to guarantee what Deputy Johnson's motion has asked.

Mr. GOREY: I have been interested in listening to the debate. Some of the debate was on a very learned plane. Some of the Deputies went to lengths that I am unable to reach. When I speak on this matter I will content myself with very plain words. I will come down to facts as close as I can to what is actually in existence. We are told that the cause of this discontent is the fear of unemployment. I do not believe that for a moment. There is no evidence of that. None whatever. Is it the fear of unemployment that has caused the present strike, the present holding up of traffic in the city of Dublin and at the ports in the Saorstát? There is a huge strike on in the County Waterford. Is it the fear of unemployment that has been the cause of that? In what form has it led to it? Is it the fear of unemployment that was the cause of several strikes and several dislocations of trade all over the country, that has put an end to the little industries that were creeping up or were extending at the time? These little industrial concerns were started up and down the country, some of them in my own county, and what has put an end to them? Demands were made that the people who put up the strike knew could not be met out of the business. Still the strike was put up. The industries were closed. They are closed yet, and will never be opened. Was it the fear of unemployment did all this? Was it the fear of unemployment brought about all this dislocation of trade? Is there any such case that has really happened in which anybody can put his finger down and really say it was the fear of unemployment that caused such and such a strike? Can anybody point to a single strike that was caused by unemployment? Now, is it permanence of employment for which the demand is made? Or is it a demand for a permanence of wage for adequate work or a fair return? I have heard a good deal of this permanence of work. I believe it is not permanence of work at all that is required. I believe it is a permanence of wage, a

permanence of a certain amount of money each week-

Mr. JOHNSON: Hear, hear.

Mr. GOREY: Without any regard whatsoever for any return in work for the money.

Mr. DAVIN: What you want for the farmers, sometimes.

Mr. GOREY: I will not come to the farmers at all. I will confine myself to the city. Is the amount of work done at the Trinity College Corner below in Nassau Street a return for the wage that has been expended on it? Is that an example there in one of the principal streets and thoroughfares of our city of what would be given for a wage? I would like to know the figure of the amount of money that has been expended on that job down there. I would like to know the number of square feet that are in the whole job. I would like to know how much it has grown from day to day.

There is no use talking about work if it only means shamming at work. I mean work as understood by a certain section of the people in this country. I have great sympathy with Deputy Johnson if he means a wage for work, and I am prepared to go a long way to meet him; but I have no sympathy with him if he means a wage for little or no work at all for, practically speaking, shamming work. I have no objection to a guarantee of a wage if we get a guarantee of work or an adequate return for that wage. There will be no necessity for the State to take up this matter any more than the Government of any country, if there is a fair guarantee that work will be done. There would be no necessity for State interference if work is given for the wage that is paid. Any man knows, no matter what he says here in the Dáil, or outside, that if we could get a guarantee of self-reliance, and a guarantee of effort, it would be very easy to guarantee a wage, for the wage would come automatically. What do we find all this demand for a guarantee of work amounts to, as we see it in practice? I mentioned Trinity College corner as one instance. I could take you to several other corners, but I cannot take you to very many corners in Dublin where building is being carried on. Why?

Mr. DAVIN: Pay the men.

Mr. GOREY: The man who wants

work and who is willing to work can always get work. A great deal has been said about the men engaged in the building trades. Why is this question raised about the building trades? Why were we not given the causes of the trouble in those trades when this particular strike was mentioned? Why were we not told about the transport trade? We are told about permanency of work in the building trade. We have as much raw material in this country as in any other country in the world, and it is as near to our doors and nearer, in fact, than in any other country. Yet, we cannot carry on the building trade. We have rock, brick, lime, sand, mortar, cement and timber; we have everything in the matter of raw material. Why then can we not carry on the building trade as well as any other country is carrying it on? Why have our cities not grown? Why have the slums not been replaced by good houses, and why are our suburbs neglected? In any other country in which one travels one can see houses being erected around every city and town. Where will you see one around Dublin? All you can see are three or four houses at Blackrock, and whether they were built by State aid or by private enterprise I cannot say, but I am surprised that even those houses were erected. What is wrong? We have all the raw material we require. There is something lacking, some big essential lacking. Building trades cannot go ahead here, but they can elsewhere. The answer is—it is not a paying proposition, and it is absolutely impossible. Our business men and our contractors are ready to go ahead and invest money at a small profit, or on the chance of even getting back their own money. Why are they not engaged in these enterprises? It is because they know that not even their money will come back, and they know that it is a dead loss to engage in the building trade. In another discussion on the building trades, assertions were made from these benches, and they were not denied even by professional men—men engaged in the very trades referred to. It cannot be said we have not a market for houses in Dublin, and that houses are not needed in the city. Houses cost more in Dublin than in any other city that I am acquainted with. In any town or city in England house building will not be so costly as in Dublin. Here you are asked

£1,000 or £2,000 more for a house than anywhere else. The market for houses in Dublin is the finest in the world, and yet houses cannot be erected here.

Labour will be doing us a very good turn if they would help us to find out the disease in the building trade, and they would be doing us a much better turn still if they helped us to cure it, or if they help to apply the medicine for that disease, medicine which would help the State to cure it or help the State to apply the medicine. Something is wrong in the building trade. Most of us know what is wrong, and I am sure the Labour leaders know what is wrong too.

Mr. JOHNSON: They do.

Mr. GOREY: It is very well to say that the State should step in and guarantee comfort and decency to every member of the human family, to every cog in the human machine, but are all these cogs of the human wheel ready to fall into their places and to do their share? If they were prepared to do that, and say that, then we would be on the right road, and we would not be talking this clap-trap.

If employment is guaranteed Deputy Johnson tells us he will do his best to do the rest. Is he able to do the rest? I am sure that Deputy Johnson is sincere in the promise that he has made that he will do his best, but is he able to deliver the goods? Has his end of the machine been brought up to that pitch that they recognise that self-reliance and effort should be contributed on their part, and does he think that he can guide all his cogs into their places, and make them do their part? I give him credit for being sincere in this and wishing to do it if he could, but the question is, can he? There is another aspect of this case. If everything is right in the building trade; if, as I submit, and as everybody must admit, we have all the raw materials and still no buildings can be carried on; something must be wrong. Is it at the source of production of the raw materials? Are these raw materials too dear? Do they come to the building trade too dear? Are the men who are engaged in the production of the raw materials paid too much, or must they produce the raw materials at a less cost so as to enable the building trade of Dublin to carry on? Is it the position that the people engaged in the production of raw materials, quarried stone, bricks, cement and so on,

[Mr. Gorey.] must work for less and produce more? That is, perhaps, a way of answering the question. I do not think that the answer would be found there, but it is one way of answering the question. Are we to be asked for a guarantee of employment that will not pay for itself? Is that the proposition; that will not give a sufficient return to pay for itself? Who is going to pay for it if it does not pay for itself? The people of this country, the people who produce, the people who work, and when we talk about the wealth of this country we mean only the wealth that comes from production.

Mr. JOHNSON: Hear, hear.

Mr. GOREY: That is all the wealth we have. If some of the people who produce have to subsidise other people who produce them, I do not think we would be acting quite fairly; we are not giving a better return to the man who produced more than to the man who produced less. We are not giving a man a return for his efforts or for his work. The reason that so many men can go slow in this country and need not do their full share is because a certain section is doing more than its share, and is carrying the rest on its back, and because people in the agricultural districts have not been getting a fair return for their work, men who can afford to be idle at the expense of the small farmers who have put in an intensive effort and who have never had a return for it; not the man who is paid a wage and is only paid on chances, who, with his family work hard from day's end to day's end. Other people are living on this toil for which he never got a return, but I think he going to get a return for it, and the sooner people make up their minds to that the better. If you are looking for a man who worked to subsidise another man who will not work I warn you that you are not likely to find him and you are less likely to find him in the future, and we, who represent the people, will try to educate them to that, and try to guarantee that they get a full return for every effort they put up.

Mr. JOHNSON: Hear, hear.

Mr. GOREY: If you have found such a man in the past, you are not likely to find him in the future. I hope in the near future that facts will educate him as to his position. I hope that these men will wake up and see that they get a return

for their work. I ask Deputy Johnson and the other Deputies who have talked about this big human wheel——

Professor MAGENNIS: Weal.

Mr. GOREY: Well, wheel will do me.

Mr. DAVIN: You are one of the cogs.

Mr. GOREY: I mean the human machine, this particular big wheel of the machine. If all those cogs are ready to fall into their places and do their duty automatically, then, I think, we shall have arrived at a very happy stage. Have we arrived at that stage? Before we ask for guarantees we ought to try to arrive at that stage. We ought to give some guarantee that we are on the road, at least, even if we had not started. We ought to see some indications that people are prepared to give an effort and are prepared to work. We ought to have some real indications of that, and that they mean to work. If they do not mean to work there is no use talking about guarantees. The time is not ripe for guarantees. Deputy O'Shannon says that a section of the community neglects to do its duty. I agree, but I say that, perhaps, more than one section neglects to do so. It may be that a few other sections that he has not mentioned, have neglected their duty also. Until all sections in this country are prepared to do their duty, fit into their places, and pull their weight we have no use talking about guarantees.

Mr. NAGLE: I desire to support this motion, and I may say that I was very pleased to hear the remarks that Deputy Magennis has made on the matter. Deputy Gorey also, I may say, interested me. He usually does when he starts talking about things of which, I beg to suggest, he has very little knowledge indeed. There is one thing that he said with which I agree, and I am very glad that he admitted it; that was when he stated that a number of us have been talking clap-trap, and, I presume, he has included himself in the lot.

Mr. GOREY: Oh, no No, no.

Mr. NAGLE: He made a statement to the effect that it should be no more necessary for the State to interfere in a matter of this kind in this country than in any other country. I submit that the fact that he made this statement proves that he knows very little about conditions

in other countries; that the fact, if it is a fact, that other countries do not interfere in a matter of this kind, is no proof at all that their interference is not necessary. As a matter of fact, anybody who has studied the conditions of the workers, and social conditions generally, throughout the world, must recognise that it is necessary for somebody, if not the State, to interfere in other countries to do what Deputy Johnson is asking that we should do here. Deputy Gorey also wants to know if it were permanence of work or permanence of wage that the workers wanted, and he implied that it was permanence of wage. I submit that Deputy Gorey is judging wage-earners by his own class. He is trying to imagine that they want to get what he has been wanting to get and perhaps give as little return as he has been wanting to give.

Again, to show his lack of knowledge on the subject he instanced the corner at Trinity College, and he questioned if good value has been given for the wages earned on it, and then he says he would like to know what is the cost of the job. I think it is altogether unfair to start denouncing these men. I do not know them, and I have no personal interest in them. He denounced these men for being slackers, and in the same breath he admits that he does not know what the job costs. He shows just as much ignorance in this matter as he did on other matters.

Mr. GOREY: On a point of personal explanation, if I do not know anything about the money spent on the job I know about the number of days it occupied, and I try to make a calculation from the number of men employed and the number of days occupied.

Mr. NAGLE: He asked then was it right that the people who work in this country and do useful work should subsidise people who do not want to do useful work, and he said if there were people in the past willing to do such things, and to subsidise loafers they would not get them in the future. I think as regards the Land Bill that there were some people willing to subsidise other people. As a matter of fact, I was under the impression that there is a certain percentage, 10 per cent., I think, of the total cost of the land that would be bought from the landlords, that will be paid by the people of Ireland generally, and not only by the farming section which will benefit by this.

I submit it is not consistent for Deputy Gorey to be willing to accept a subsidy in order to enable unpurchased tenants to purchase their lands.

Mr. GOREY: They have not asked for it.

Mr. NAGLE: Nor are we. And at the same time he denounces the provision of a subsidy for another section of the community to enable them to earn a bare subsistence in this world. Deputy Gorey mentioned unemployment, and he mentioned disputes in Dublin and Waterford. He questioned if it was the fear of unemployment that caused these disputes. It may not be directly the cause of the disputes in Waterford and Dublin, but in Dublin, at any rate, it is a fact that the dockers who are involved in the dispute, as well as the dockers in other ports, are always subject to long periods of unemployment. This has made them desirous of retaining the daily wage they already possess. If these men were granted a wage which would give them a decent existence, and, if they got that wage week after week the fifty-two weeks of the year I do not think they would be unwilling to give a decent return for that, and I think there would be very few disputes in the docks in Dublin or elsewhere. He also mentioned that many little industries had been attempted to be started throughout the country that were destroyed by industrial disputes. If my memory is correct, I think, on a previous occasion when a similar matter was being discussed, Deputy Gorey made a similar statement, and Deputy Johnson asked him to name the particular industries in Ireland that had been destroyed by trade disputes. On that occasion Deputy Gorey did not name these industries. Before he makes a statement like that I would like if he would give us these facts. I hope the Dáil will pass this resolution. I was an employee at one time in the building trade for twelve or thirteen years. I know the men in the building trade are not half as bad as Deputy Gorey would lead us to believe. I have often heard it said when comment was made on the bent shape of men in the building trades that they had worked themselves into S hooks to keep sufficiently in the good graces of their employers, and to keep their jobs. I can assure the Dáil that up to four and a half years ago, when I was employed in

[Mr. Nagle.] the building trade, that there was no employee of a building contractor in Dublin, or in any part of Ireland, who had an easy time. Deputy Gorey's references on a few other occasions, as well as to-day, was trying to give the impression that the reason why houses were not built was because labour in the building trade was so dear. I happened to be a member of the Departmental Committee on the Rent Restriction Act. Some of the evidence given to that Committee showed that everyone was not agreed that it was the high cost of building that was responsible for the present shortage of houses. In fact, two or three witnesses stated very definitely that building had ceased in a sense long before the European war. Some of them stated, and I also saw it stated in some trade papers recently, that it was the Finance Act of 1908, that was responsible for the lack of building, or for preventing the building of houses by those who prior to 1908 had been building and selling houses at a profit. I do not claim to know much about that Act, but I understand that it was because of the number of forms that had to be filled up to show the value of houses erected and the rest of the red tapeism that was in the Act, that put a check upon building, and that was six years or so before the beginning of the European war, a long time before there were any disputes of an extensive kind in the building trades. There had not been a dispute in the building trade except once twelve years previous to that. I have pleasure in supporting the motion.

Mr. WHELEHAN: I take it that Deputy Johnson, in putting this resolution to the Dáil, does so in the best interests of the State, and I take it his intentions are of the best, and the one helpful thing. I think, about his whole speech was that he spoke of the future, trying to leave the past to forgetfulness. I think that if we are to have that mutual co-operation which is essential to the peaceful development of industry and commerce, undoubtedly, we must forget a good deal of what has passed, and direct our attention to the future. As late as yesterday we had in a certain town in the South of Ireland what might be termed an industrial conference. There were present at the conference representatives of Labour in the particular industry and representatives of the Board of Direc-

tors. In going down to preside at that conference, and knowing the position which each side had taken up, two of us had very little hope of ultimate success. For ten hours we tried to hammer out some form of agreement, and during the whole conference I found that whenever the tendency manifested itself on either side to get back to the past, things were getting pretty hopeless. I appealed to both sides to forget the past, and to look to the future. The result was that after ten and a half hours, we arrived at a conclusion which I think the future will prove to be satisfactory and to make for the peaceful development of at any rate one Irish industry on a very large scale. The management of the Industry felt quite certain that though in the past they had been able to employ only from 60 to 70 men all told the result of yesterday's conference would enable them to employ within a couple of years from 600 to 800 men. It was an industrial conference, with the past as far as possible obliterated, and with mutual goodwill. I must bear testimony to that—mutual goodwill on the side of both parties and a successful conclusion arrived at. I would point out that the conferences which Deputy Johnson refers to in this resolution, if they are to be of any use, must depend upon the mutual goodwill of both parties entering into them. Goodwill and co-operation are necessary for capital and labour if we are to have a peaceful development of industry within the State. That is essential. Deputy Johnson has assured us that he has no intention that this Dáil should commit itself to a policy which would be a revolution of the present social order. I think that is putting exactly what Deputy Johnson said in moving the resolution that he did not wish to commit the Dáil to a revolution of the present social order.

Mr. JOHNSON: I think I said I did not want to ask the Dáil to commit itself to any new form of social order or new state of society. That may grow.

AN CEANN COMHAIRLE resumed the Chair at this stage.

Mr. WHELEHAN: I take exactly the Deputy's words as the words which I wish to put myself as representing what he did say. I have hope that with mutual goodwill on the side of both capital and labour schemes of organisation can be

hammered out which will put industry in this country in such a position as to enable it to so develop that it will ultimately absorb all those of the State who are at the present moment find it hard to eke out an existence. I have hope of that and as far as these conferences of representatives of employers and workers' organisations are concerned, if we have any reasonable hope given us that the parties will enter them with goodwill, I think that the Government would be justified in calling such conferences together. But there must be reasonable ground for believing that the parties enter them with goodwill. I regret, however, that the resolution in its entirety is not acceptable, because of the very social order which Deputy Johnson admits exists at present. The resolution simply proposes an ideal state of things. It would be ideal to have every man guaranteed a means of living, but there is no use in passing resolutions which we cannot carry out. I would ask Deputy Johnson to accept an amendment of his resolution which I would then very cordially support. I would ask him to delete "be" in line 2 and "guaranteed" in line 3 and to substitute for these words the word "have." If the Deputy will accept the amendment I shall very cordially support the resolution.

AN CEANN COMHAIRLE: The resolution would then read "that the workers should have regularity."

Mr. JOHNSON: The Minister suggests that we should be willing to take the shadow and forfeit the substance, that you may have the hair even without the hide or without the body or the flesh of the beast. If I had thought of accepting any such resolution as satisfactory I would not have opened the discussion. The proposition is that we should say that the workers should have regularity and permanence of employment. Nobody will dissent from that, not one single soul in this country or in any other country. The proposition that I put is that if you want to lay the foundations for peaceful development, for development without the interruption that strikes so often cause then you have to remove the cause of three quarters of those interruptions which, despite Deputy Gorey, has its roots in this fear of hunger and unemployment.

I put it to the Dáil that inasmuch as this country is capable of maintaining out of its produce a much larger population

than it at present contains, the first task of the organisers of the industries of this country is to utilise the labour available to increase that production, if necessary, but to distribute that production in return for services rendered.

This is the proposition I am putting to the Dáil. It meets Deputy Gorey in the essential point that he made. If Deputy Gorey had read the motion he would not have made half his speech. The other half was made simply to show that he desires to create or develop an antagonism between the town workman and the country workman. The proposition in the motion is that having agreed upon this fundamental requirement then—it is not that the State should do it unless other people fail to do it—the State should call into conference the human elements that go to the creation of wealth in order to devise the best means of putting into operation and giving practical effect to this fundamental proposition. If you say that that is impossible, then, as Deputy Magennis has pointed out, you are denying certain essentials of your faith. Surely, you are not going to preach that certain things are desirable but certain things are impossible. You are not going to preach the doctrine that certain things are ideal and can only be reached by angels and that therefore they are of no use to humanity. I maintain, on the contrary, that this is a practical proposition for human society and for human society in this country.

AN CEANN COMHAIRLE: It is now 4 o'clock and the Deputy will have to move the adjournment of the debate until the next day for Private Members' Business.

Mr. JOHNSON: I move the adjournment of the debate until next Wednesday. Motion agreed to.

ADJOURNMENT OF THE DAIL. THE NORTHERN BOUNDARY QUESTION.

Mr. O'HIGGINS: I move the adjournment of the Dáil until 3 o'clock on Monday.

Mr. P. HUGHES: I wish to draw the attention of the Dáil to the anxious state of mind of some of the people living in the Northern counties at the present time. This matter has been forcibly brought to my notice by people who are near neighbours of mine who, as a matter of fact, live only a couple of miles away

[Mr. P. Hughes.]
 from me. They are commencing to think that their interests have been neglected and that the Deputies here do not wish to have the Clause of the Treaty dealing with the Boundary put into force. They think that before now some action should have been taken. I wish to say, at the outset, that I do not wish to wring from the Government any statement that they do not desire to make. If they consider that it would be embarrassing to them or hurtful to their policy that any statement should be made, then I do not ask them to take any such course. But if it is within the power of the President, or any member of the Government, to make a statement which would ease the minds of those people who live in the Six Counties, and particularly in that portion of the Six Counties which hopes to come within the scope and the authority of this Parliament, I would be glad if he would do so. There is a good deal to be said, perhaps, why a statement on this subject has not been forthcoming up to the present. To my mind, at any rate, the time was not ripe for any such statement. There is a lot of unrest and dissatisfaction amongst a large section of the people in the North of Ireland as to why this Boundary Commission has been, as they call it, "shelved." A good many statements have been made in the Northern papers, and by the Northern Premier, and it is for the purpose of getting a true statement of the facts put before the country that I bring forward this motion this evening. I understand that Sir James Craig has stated that he is not going to appoint a Commissioner to assist in settling this question. This Government must have some policy on this question, and I would like that policy to be stated here this evening, if it is possible, in order to allay the fears of a large section of people who are yearning to come in and obtain their rights under the Treaty. These people feel—and in my opinion justly feel—that time is slipping by and that their rights have not been given effect to. I, therefore, ask that the President, or some member of the Government, should make a statement on this vital matter which will have the effect of allaying the fears of a number of our countrymen in the North.

The PRESIDENT: In reply to the Deputy's question I wish to state that the Government is of the opinion that the

opportune moment has arrived to give effect to the remaining provisions of Article 12 of the Treaty.

I have, therefore, to announce that the Government has taken the first step in this direction.

After very long and mature consideration we have chosen Dr. Eoin MacNeill, Minister for Education as the best person to represent the Saorstát as our Nominee on the Boundary Commission. Dr. Eoin MacNeill has, I am happy to say, with great public spirit and self-sacrifice, consented to act in this most responsible and arduous capacity, and His Majesty's Government of Great Britain has been informed accordingly.

It is fitting that at this juncture I should briefly re-state the position with regard to the North-Eastern Question. It is very simple and very clear:

Under the provisions of the Treaty the Parliament of Northern Ireland had the choice between two courses. The first was that Northern Ireland should remain in the Free State, in which case it would maintain the powers conferred upon it by the Government of Ireland Act, 1920, and also the area allotted to it under that Act, with our willing assent. Thus in order to secure Unity by the establishment of an All-Ireland Parliament, our plenipotentiaries were ready to leave very large powers in the hands of the Northern Parliament, and to leave under its jurisdiction an area admittedly very much larger than that to which it was entitled on the basis of the wishes of the inhabitants.

Article 12 provided the second course open to the Northern Parliament. Let me remind Deputies of the terms of that most important Article. It reads as follows:

"If, before the expiration of the said month, an address is presented to His Majesty by both Houses of the Parliament of Northern Ireland to that effect, the powers of the Parliament and the Government of the Irish Free State shall no longer extend to Northern Ireland, and the provisions of the Government of Ireland Act, 1920 (including those relating to the Council of Ireland) shall, so far as they relate to Northern Ireland, continue to be of full force and effect, and this instrument shall have effect subject to the necessary modifications.

Provided that if such an address is so presented a Commission consisting

of three persons, one to be appointed by the Government of the Irish Free State, one to be appointed by the Government of Northern Ireland, and one who shall be Chairman, to be appointed by the British Government, shall determine in accordance with the wishes of the inhabitants, so far as may be compatible with economic and geographic conditions, the boundaries between Northern Ireland and the rest of Ireland, and for the purposes of the Government of Ireland Act, 1920, and of this instrument, the Boundary of Northern Ireland shall be such as may be determined by this Commission."

On the 7th December last, as we know, the Northern Parliament exercised the undoubted right given it under the first part of this Article of the Treaty and voted itself out of the jurisdiction of Saorstát Éireann.

This action of theirs has made inevitable and imperative the carrying out of the remaining provisions of that Article, viz., the establishment of the Boundary Commission.

Until that Commission reaches a decision in conformity with the terms of reference already quoted, it is plain to every man that it is impossible to say what the area and boundary of the future Northern Ireland, that sprung as it were from the first part of this Article, will be.

It is, therefore, as I have said, essential ; —essential for all parties, for ourselves, for Great Britain, and for Northern Ireland to have the new and actual proportions of the latter area definitely and justly established.

It is unnecessary to recall, except in the barest outline, the reasons for this provision, the obvious justice of which was very frankly admitted by the British Signatories to the Treaty. I need only say that the boundary of Northern Ireland was drawn by the Act of 1920 in a quite arbitrary fashion, not in accordance with the ascertained will of the people concerned, but in such a way as to give a section of this people an extent of territory

wholly out of proportion to their local majority. That territory includes two whole counties—Tyrone and Fermanagh—in which the majority of the population desire union with the rest of Ireland, and other areas, such as parts of Armagh and Down, contiguous to the Free State, the majority of whose inhabitants also desire to be Free State citizens. The justice of revising the boundary, in such a way as to meet the wishes of the maximum possible number of the inhabitants, and to leave as few discontented citizens as possible on each side of the border, will we believe be evident to all the world. As said before, our plenipotentiaries were prepared, in the interests of unity, to leave the boundary of Northern Ireland as it stands. But since the North-East has decided for the present against unity there can be no justice in maintaining a boundary which runs so counter to the desires of large masses of people. Any division of the country we hold to be deplorable and against the real interests of both sections. We hope and believe that it will be merely temporary. But while there has to be division we demand that it should be division on equitable lines and as little hurtful as possible.

I wish to repeat that this demand of ours for a redrawing of the boundary is not made in any spirit of hostility towards our Northern fellow-countrymen. We desire peace and harmony with them, and we believe that peace and good-feeling are essential for all parts of the country. But we cannot possibly ignore the discontent and dissatisfaction of those supporters of the Free State in the North who are kept against their will and wish out of the jurisdiction of the State to which they desire to belong. We believe that the removal, so far as is possible, of that reason for discontent is necessary in the interests of harmony, and that a satisfactory settlement of this question is one means of creating a better feeling between the inhabitants of all parts of the country.

The Dáil adjourned at 4.15 to 3 o'clock on Monday.

DÁIL EIREANN.

DE LUAIN, 28ADH IUL, 1923.

(Monday, 23rd July, 1923.)

Cromadh ar obair an lae ar 3.15 p.m.
Bhí an Ceann Comhairle, Micheál O
hAodha, 'sa Chathaoir.

LAND BILL, 1923.—REPORT
STAGE.

MINISTER for AGRICULTURE
(Mr. P. Hogan): I beg to move: That
the Land Bill be received for final con-
sideration.

**MINISTER for LOCAL GOVERN-
MENT (Mr. E. Blythe):** I second.

Mr. JOHNSON: This Bill has been considered in Committee and on Second Reading, and it had a number of amendments inserted in it. The reception in the Dáil has been somewhat mixed, but at least it has gone through to this Stage, and I presume there will not be very much delay in the passing of this Stage, judging by the absence of those most interested. I would like to say with regard to this Bill, that when it came on for Second Reading, there was some hesitation as to whether I should support the Second Reading, in view of the principle that was involved, that the landlords were entitled to the purchase by the State of their interests in the way it was proposed to do. The Minister's speech in introducing the Bill helped me to make up my mind, and I concluded after hearing his speech, particularly, that in view of the precedent that was being set in this Bill, in view of the arguments that were put forward by the Minister, that it was desirable to support the Second Reading. The principle that I referred to was the principle that the landlords having a certain legal right to draw rents for an unlimited number of years back, that legal right having been acquired under this Bill by the State through the issue of bonds bearing interest at 4½ per cent, the enunciation of that principle and its embodiment in the Bill led me to think that the same principle might well be adaptable to

every section of the community. I remembered that there is by virtue of long practice, custom as well as law, a right on the part of the individual citizen where he is hard-pressed and needy, to come upon the public funds for sustenance and maintenance, that when the alternative is starvation or sustenance, he must not choose starvation, because the public funds are available to maintain him. I realise that the precedent set by this Bill might well be applied to the people who are at present entitled to call upon the public purse for maintenance in time of need. I thought, perhaps, that the same idea that is embodied in this Land Bill might be applied, and that those citizens who were duly entitled by the law to come upon the State for a certain maintenance, could come to a new Dáil and claim the same kind of treatment as the landlords were claiming and were receiving. They could sell their rights to the State on the same terms. They could calculate that, for themselves and their families the maintenance costs would run to about twenty to thirty shillings per week, and that those rights to maintenance could be sold to the State, at the same price at which the landlords' rights to draw rental are being sold under this Land Bill, and Bonds could be issued to them entitling them to draw four and a half per cent. interest for ever, as compensation for the sale of their right to maintenance. Then it would be quite a useful method of treating the cases of so many thousands of people who are really needy, and people could, as a matter of fact, save up for a time of need the interest charges on those Bonds which they would receive in return for the sale of their right to draw sustenance from the public Exchequer. I think the parallel is a fairly good one.

In view of the adoption by the Dáil in the case of landlords' rights and as a possible headline for another Dáil which the Land Bill would set, it is well worth supporting. I can imagine people asking whether the Ministry would be good enough to introduce a similar Bill to purchase their rights on the same terms as the landlords are being entitled to sell theirs. The cost no doubt would be heavy, but I venture to think that it would be well worth the experiment. No doubt people would be selling something that is valuable, but they would

be getting for it an immediate return, a guaranteed return for ever. The landlords are, undoubtedly, being put in a position to draw upon the public for maintenance in exchange for the sale of their rights to draw rents. If the idea can be embodied in future legislation and the example that is set by this Bill can be quoted, and Deputies of this Dáil or succeeding Dáils will be consistent in their view of the way one section or another of the public should be treated, then I think it would be a very good bargain for the community as a whole, and on those grounds I have no compunction in supporting the final stage of this Bill.

Mr. HOGAN: I do not intend to start a controversy on the particular point which has been raised by Deputy Johnson, partly because I do not know what he is driving at. I do not think he developed his point, or made it quite clear.

Mr. JOHNSON: I will try again.

Mr. HOGAN: I am not going to suggest that he should try again. That was rather a mistake of mine, if my words pointed towards such a suggestion, and I hasten to withdraw them. Seriously, I do not know what point he wished to make. I do not see the parallel. I am anxious to see it, but I do not see the parallel. There is a certain amount in what the Deputy says, but only a certain amount, and we will never get anywhere unless we get right down next to the facts of the case and see how far they take us. One of the facts of the case is that we are taking over what has been regarded as property. It is no use if Deputy Johnson shuts his eyes to the facts. Up to the present, and at the present, the rights of property are recognised and regarded in the country. Before we can get much farther along the lines that the Deputy developed we must make up our minds that we recognise the rights of property.

This Parliament recognises them. It is paying for the landlords' interest in the land, and it is from that point of view that the Dáil is approaching the question. It is for those reasons the Dáil is paying a certain amount for the property that is being taken. That is the fact. It is open to the Deputy, or to any other Deputy to persuade the Dáil that the rights of property should be abrogated in the country; but that has not

been done yet. I think the Deputy's suggestion was that we were really taking away certain moneys which these landlords employed to support themselves and their families, and that on those lines we should give certain moneys to workmen to support their wives and families. I am not clear as to what his point was. If there is any parallel that is the only parallel that I can see. Of course, there is all the difference in the world, quite apart from the point of view of property. In the one case you are taking away rights recognised by law—the rights of the landlord to get rent out of the land every year. He parted with the land without compensation, and he gave it to a man who considered he was taking it as a good bargain, and he provided a certain consideration for the handing over of the land—namely, the right to get rent yearly. You are taking that from him. On the other hand you would be handing over rents to people whom the State does not recognise as being entitled to annuities. I want to understand the Deputy's point, and that is the only parallel I can see. However, this is not the time to discuss that matter. We will never get any further in this direction, or nearer a solution of any of the problems which the Deputy raised now, if he does not face the facts and come down to business, and if he does not meet the real difficulties that are there, and not be attempting to meet the difficulties that are not there.

Mr. ROONEY: I would like to say a few words on the Final Stage of this Bill. Deputy Johnson remarked that those most interested in the Bill were badly represented. That may be quite true, but neither is the Labour Party, nor any other Party in the Dáil, well represented. As we of the Farmers' Party mentioned on the First and subsequent Readings of the Bill, we give the Government credit for making an honest effort towards settling this question. We realise that the Government had great difficulties, and that they are making an honest effort to overcome those difficulties. The amendments that have been accepted, and passed by the Dáil, have certainly improved the Bill. There is, however, one point that is not satisfactory, and that is in connection with arrears. All over the country resolutions are being passed, letters and telegrams sent, and every form of protest

[Mr. Rooney.]

being made, in regard to those arrears. We have received our full share of those. Except the Seanad can improve the Bill in respect of the arrears clause, I take it nothing can be done, as I suppose it has passed from our jurisdiction. On this, the Final Stage of the Bill, I would like to register, on behalf of the Farmers' Party, a protest. We are not satisfied with the arrears Clause.

Professor MAGENNIS: I notice that Deputies have not altogether lost the memory of the Christmas pantomimes that they attended in their earlier days. It was the fashion at the end of the performance for those who had taken the principal roles to line up before the footlights, and each of them repeated some small little tag of what had been in the main portion of the stuff allotted to him. No doubt, the Bill has been considerably improved in minor regards since its first introduction, but the Bill was so admirable a Bill in its conception and in the spirit and practical character of it, that there was very little room for improvement. I think the Farmers' Party who represent those most interested, but not those who alone are interested, are willing to admit that. The final protest against the Bill was merely with regard to arrears. I notice that there is a proposal in some of the papers that as an act of gratitude towards the Labour Party for the support it gave to the Farmers' Union representatives in the Dáil on this Bill, a new party shall arise, a coalition or combination of Labour and Farmers. I presume the first item in that new party's programme would be the settlement of the dispute in Waterford. On this question of arrears, it might be heartless to remind Deputy Rooney of the famous sentence in the play of Richard III., "After sentence, plaining comes too late." The point at which the attack should have been delivered was the stage at which powers were being taken to empower undersheriffs to deal very severely with those in arrears. Now, Deputy Rooney has forgotten one thing—namely, that this protest, though belated, was met very amicably by the Ministry, for an undertaking was given that those arrears that have not been collected, though steps were being taken rapidly to collect them, should be stayed. A further concession was made, and that was to take off por-

tion of the arrears where these amounted to three years, and spread that over the annuities, in part. Another feature of the Bill which surely should commend itself to the Deputy, was the alteration that was made in favour of leaseholders. A very new thing, and a thing for which many people in the country were desirous, was the relief of leaseholders, who, because of the terms of the original instrument, were regarded as mill-owners, or as in possession of residential holdings.

By the amendment which the Minister for Agriculture has inserted, it does not matter what the character of these legal instruments may be. The point is simply—what is the character of the holding? Is it mainly an agricultural holding, for example, at the time of the passing of the Bill? This has brought relief, not to a very large number, but still to a number whose omission from the operations of preceding Acts left a considerable sense of grievance. The finance side of the scheme, somehow, has escaped admiration and praise. Very few stopped to eulogise the genius with which what was once considered by the British Government, because of the British Treasury, an insoluble problem, has been solved with practically no expenditure of money, but merely by the judicious use of bookkeeping entries on opposite pages of a ledger, assisted by the issue of bonds. If there was nothing else in this Bill than its ingenious finances it would require praise at this stage, and when I say it is ingenious I do not use the word in its modern sense, which is somewhat opprobrious, but in the earlier, 18th century sense, of exhibiting genius and ability of an exceptional sort. What amazes me is that the people at large, and, of course, the country Press is somewhat to blame for this, are so greatly unaware of what a great revolution this Dáil has created in land tenure, so quietly and so effectually. The people are not aware of it. It is a curious thing with regard to historical matters generally. The people are not aware, when the thing is happening under their eyes, that something very exceptional is occurring. They take up a history of past events, and they read about transformations of the social order and the setting up of absolutely new relations between man and man, say, in the 15th or in the 17th century, and they marvel at these. But here is a revolution. There is no appli-

cation more appropriate for the term "revolution" than this, by which the land of the country is transferred to the people of the country and all the landless men and labourers who had lost employment through the operations of previous Acts and all the tenants with uneconomic holdings and men deprived of access to turbary are all relieved. Why, there are, in the operation of this Bill, so many reforms that touch upon the future of Irish progress in so many different points that, in fact, without exaggeration one might almost say that it is because of the extraordinary number of reformatory items that the people are not aware of the Bill's importance. The outside critic, if he were told of one of these things, if he received one at a time, would probably make it a subject of conversation for at least the nine days over which proverbial wonders extend, but when a full dish, in the classical sense, is presented it would look as if the imagination were staggered by the multiplicity of good things. I must say that I have been quite surprised at the small amount of attention with which so great a Bill was received through the country. When it was promised one might have said, "it is too good to be true," but now that it is leaving the Dáil, so far as this Chamber is concerned with it, completed, and now that this extraordinary progress has been made with it in so short a time, the listlessness and lethargy of the people in regard to it are amazing. I am old enough to remember the passing of the first Purchase Act, and I recollect the ferment of discussion and the enthusiasm that the prospect of its introduction into Westminster occasioned. Either we have become deadened in these later years by so many sensations of another kind, or we have so increased the scope of our aspirations and demands that a great measure like this seems little to us. At any rate, I think it my duty, as one independent Deputy, to say just this much in praise of the enterprise of the Minister who introduced the measure and the extraordinary capacity that he displayed, the minute knowledge of every detail in it and the masterly attention he gave throughout the long days of the most fatiguing discussion. He kept his mind clear and his statements equally clear in the discussions, and carried this thing through successfully. It seems to me, if I may pose now as one of the older members,

older, I mean, in point of years, as a very happy augury for the future of Ireland when one of the youngest of the Ministers in this young Parliament was able to undertake and carry through such a great achievement.

Mr. DARRELL FIGGIS: I am sorry to mar in any sense the pantomime illustration that Deputy Magennis just gave to the Dáil. I think he was the last, although I think it will be in general agreement that he was certainly not the least of the figures who had contributed to certain portions of a very profitable entertainment during the course of the passing of this Bill through the Dáil. I had not taken any part in this Bill except, with commendable restraint, to exercise a vote in its favour whenever it went to a vote. I am only moved now to participate because of certain comments made by Deputy Johnson. I think that the chief virtue of this Bill has been an element that, I believe, will be of very great virtue to us in the future if we remember it rightly, and that it signalises in a statesmanlike achievement a very happy compromise profitable alike to both parties that participated in the compromise. I know that there is much to be said at all times against the spirit of compromise, that there are doctrines to be ridden, and sometimes ridden to the death, but this Bill has certainly proved to the Dáil, and, I believe, in spite of apparent agitation, has proved to the country that that spirit of compromise is an excellent spirit, and that it has been very finely exemplified in the provisions of this Bill. What one may refer to, perhaps, as the mitigated praise that it has received from both sides is a proof of the nearness and justice of that compromise. Claims have been made by those who possess land, and claims have been made by those who desired to be the possessors of land. It is a recognised principle in Ireland, and it has been accepted, and it is not the least virtue of this Bill that it should have been accepted during the course of the Bill, by all parties in the Dáil, that it was desirable to set up no national doctrine, but a nation of peasant proprietors. I remember Deputy Johnson's statement to that effect, and I think it was a statesmanlike statement on his part that the country will remember in the future. But in accepting that essential principle, in spite of the acuteness with which

[Mr. Darrell Figgis.]

certain phases of it have been addressed and attacked, that claims made by one side, or claims made by the other, might or might not be very excellent outside as a doctrine, this Bill sealed a settlement in respect of a very vexed question by a compromise that was as near justice as it was possible to achieve, if one estimates the justice by the fact that each side have had their criticisms to make, and each side have accepted the general principles of the Bill.

I speak in this matter with very sincere feeling. I believe a very great achievement has been done in this Bill, and a very great landmark has been passed in the passage of this Bill through all its stages. Since the occasion has been the moment for adorning what Deputy Johnson imagines to be the doctrine of the Bill by emphasizing certain features of it that he regards to be the most important, I have merely risen on this occasion to emphasise what I regard to be the most important feature of this Bill, and that is when two sides in a national dispute, a dispute of many generations, have been put forward with a great deal of emphasis from each side that it is the nation's business to seal that settlement as far as it is possible in what is a just compromise. It is because that compromise has been so just and has been defended with a great deal of critical ability and acumen by the Minister that I would like to join my voice, speaking now for the first time on the Bill, in praising the achievement that has been made by the Minister and amended by the Dáil, and which when passed into law, I believe, will be for the very considerable benefit of the country.

Question put: "That the Bill be received for final consideration."

Agreed.

FIFTH STAGE.

Mr. HOGAN: I move that the Bill be now passed. With regard to the point made by Deputy Rooney in reference to arrears, fifty per cent. of the arrears are paid already in accordance with the terms of the Bill—fifty per cent. at least of the arrears. I think that is the clearest evidence as to the justice of the particular terms in the Bill in regard to arrears, that even at the present moment before the Bill is law, at least fifty per cent. of

arrears are paid in accordance with the terms of the Bill. With regard to the Bill itself, I want to say this, it aims at the completion of land purchase. Deputy Johnson made a point some time ago when he said that when the Bill was definitely through Ireland would be divided into two watertight compartments. On one side, we would have the owners of land and on the other the labourers and professional people, and he asked that some arrangements should be made in the Bill to enable a more fluid arrangement to be come to by which a man could be gradually made the owner of his land. That is, of course, the real danger. We know that in other countries, like France or Germany, where land is subdivided, and where you have peasant owners on the one side, each man owning his own holding, that that type of country develops an aggressive anti-social type of individual. That is the real danger in this country, as in every other country of small proprietors. I have endeavoured to meet that in the Bill as far as it could be met, and I think there are arrangements in the Bill to meet that case, provided the landless men and workmen do a little bit of hard thinking on the various methods of holding land, and the various organisations, which possibly might become the owners of land. People have been discussing what is the most revolutionary part of the Bill. In my opinion it is Section 31 sub-section (f), which says that the Land Commission may make an advance to any person or body to whom, in the opinion of the Land Commission, the advance ought to be made. When we were drafting the Bill we had to face the fact that you had to sell their holdings to tenants. They were the owners, as they practically held the fee-simple of them already. They had the habit of ownership and you could make no other arrangement. You had to sell to them their holdings. Where the holdings were uneconomic you had to make them economic for them and give them these holdings as the absolute owners. The same does not apply to the landless men. The most they are getting is a loan on State credit for the purpose of purchasing holdings. They have no particular right to State credit any more than any other class has for any other purpose, and the fact is that

there is not enough of land in Ireland to deal with all the men who are expecting land. Some way will have to be found out of the difficulty. There will be no land to divide amongst landless men for the next two or three years. It will take at least two years to deal with the tenants—probably more—and as I have said there will be very little land divided among landless men for at least two years. By that time I think it will be found that you will have at least three or four applicants for every possible holding. It will be for the Land Commission, and if I might say so, for the Trades Unions to find some way out of the difficulty by that time. My suggestion, for what it is worth, unless a better suggestion is made, is that some such organisation as the National Land Bank perfected should be made use of and improved, so that advances would not be made to individual landless men, but to societies of landless men. That would get over the first and the big difficulty, namely, that you have not enough of land to go around, and it will get over the second difficulty that you will not be giving the holdings to men who merely want them to sell, and then clear out of the country. At any rate, there are immense possibilities, and it is for the Trades Unions to make use of them under that clause. I have only to thank the Dáil generally, for the way they have received the Bill, and for the helpful criticism I have received from all parties, Labour, Independent and Farmers, in the Dáil.

Question put: "That the Bill do now pass."

Agreed.

THE PREVENTION OF ELECTORAL ABUSES BILL, 1923.

FOURTH AND FIFTH STAGES.

Mr. BLYTHE: I move that this Bill be received for final consideration.

Agreed.

Mr. BLYTHE: I move that the Bill do now pass.

Agreed.

PUBLIC SAFETY (EMERGENCY POWERS) BILL, 1923.

FOURTH STAGE.

Mr. O'HIGGINS: I move that this Bill be received for final consideration.

Mr. DUGGAN: I move Amendment 1:—"In Section 1 (b), page 2, lines 50 and 51, to delete the words 'in the present emergency or,' and to insert in lieu thereof 'arising out of the existence of a state of war or armed rebellion, whether local or general, or.'" The object of the amendment is to ensure that the powers given to the Military Authorities by Clause (b), Section 1, will only be exercised in areas in which a state of war exists. This is introduced pursuant to an undertaking given while the Bill was in Committee.

Agreed.

Mr. DUGGAN: I move Amendment 2:—"In Section 1 (c), page 3, line 2, to delete the word 'the' immediately before the word 'responsible,' and to insert in lieu thereof the word 'a.'" This is merely the correction of a misprint.

Agreed.

Mr. DUGGAN: I beg to move an amendment in Sub-section (2) of Section 2, line 11, to insert immediately after the word "Minister," the words "subject to the provisions of this Act."

The object is to ensure that a person cannot be detained after the period limited for the operation of the Act has expired.

Mr. JOHNSON: It is doubtful whether the object stated here will be attained by this amendment. The intention is, of course, to ensure that persons detained under an Order cannot be detained beyond the period for which the Act is timed to expire. I suggest that it would be much more likely or much more certain to achieve the object aimed at if some such words as these were inserted in addition to the amendment "for any period not extending beyond the period of the duration of this Act"—if these words were inserted after the word "custody" in line 12. It will be noted that there is a provision in the Bill which will certainly detain people longer than the period during which the Act is continued. There is provision in the Bill for sentences for 12 months or longer. Now, there is no provision in the Bill which says that the Executive Minister shall not order for any period longer than six months. If perchance an Executive Minister were to order the detention of a prisoner or an internee for 9 or 12

[Mr. Johnson.] months stating the period in his order, there is nothing in the Bill to prevent him doing so. The suggestion I make is that some such words as I have mentioned should follow the word "custody" in line 12. It would then read:—"It shall be lawful for the Executive Minister subject to the provisions of this Act, to order the detention in custody for any period not extending beyond the period of the duration of the Act," and so on.

This object, the Minister explained in moving the amendment, would be safeguarded. Otherwise there is nothing in the Bill to ensure, even after the introduction of these words, "subject to the provisions of this Act," that the Act shall only prevail for a period of six months in respect to detained prisoners. In view of the declared intention of the Minister I think the amendment, in the form I suggest, would more thoroughly secure the end he seeks.

Mr. O'HIGGINS: I think that the statement which the Deputy has made shows his failure to appreciate the difference between "internment" and "imprisonment," because the difference lies just in the fact that internment is not ordered for a period. There is no period specified. It is detention by the Executive in the interest of public safety, and no period is stated for that detention. It is not proposed to arrest people and order one man to be detained for a period of a month and another for a period of six weeks, but it is simply a decision on the part of the Executive that the public safety requires that A. B. be detained, and the powers, under which such detention takes place, will be the powers conferred by this Bill, and will, I submit, expire automatically with this Bill. I do not hold, and neither do the officials of my Department hold, nor does the Attorney-General, nor the draftsman, that this particular amendment, which has been moved, would be necessary to secure that a person would not be detained for a longer time than six months—that is the life-time of the Bill. But Deputy Gavan Duffy professed uneasiness on the matter, and it was a small thing to soothe his mind by inserting the words "subject to the provisions of this Act," and that is simply painting the lily. Deputy Johnson goes further and speaks of a period that it would be lawful to order the detention—

for a period not extending beyond the period of the existence of the Act. I think that takes away from the whole point and purpose of detention. A decision is come to that the public safety requires the detention of A. B. and when a decision is come to that the public safety does not require the detention of A. B. then A. B. will be released. It is inadvisable to speak of periods of detention. The Bill gives power to the Executive to detain for a period of six months, any person whose liberty they believe to endanger the public peace, and the public safety, and that power of detention would not survive the Bill. No other lawyer, I believe, but Deputy Gavan Duffy, would suggest that a Bill giving special powers of this kind, brought in in an emergency situation, and conferring special powers upon the Executive, would confer these powers for any longer period than the lifetime of the Bill. The draftsman and the Attorney-General were completely satisfied with the wording of the Bill as it stood, but it was a small cost to soothe Deputy Gavan Duffy's mind by inserting these few words which we believed, and still believe, to be absolutely superfluous. No one would think of quoting in nine months' time, as a reason for the detention of persons without charge or trial, the Public Safety (Emergency Powers) Act which expired three months before.

Amendment put and agreed to.

Mr. DUGGAN: I beg to move Amendment 4:—To delete in Sub-section (1), Section 3, page 3, lines 25 and 26 the words "the custody of or held in internment by the Military Authorities," and to insert in lieu thereof the words, "military custody or held as a military prisoner or captive."

It is a purely drafting amendment which does not alter the sense of the Section in any way.

Amendment put and agreed to.

Mr. DUGGAN: I beg to move Amendment 5: To delete in Sub-section (1) of Section (3) (a) on page 3, lines 30 and 31 the words, "certify in writing that for stated reasons they—"

This was an amendment of an amendment inserted on the Committee Stage, and the Minister indicated then that it would require a further amendment.

Mr. O'HIGGINS: I would like to say a word on this amendment. I accepted

an amendment moved by Deputy Morrissey on the Committee Stage which provided that a person should not be interned without a certificate from a particular officer to the effect that he believed that, for reasons which he would set out, the arrest and detention of A. B. was necessary. I accepted that amendment in a purely lay-minded way, and having accepted it was later informed by technical and professional people that, where in an Act it is set out that something is to be done for stated reasons, the use of these words makes it competent for a Court to inquire into the reasons, and to pronounce on their validity or sufficiency. That entirely altered the complexion of the amendment to my mind, and also altered it in the view of my Department, because, on that basis, the amendment would be contrary to the spirit of the Bill which confers extraordinary power on the Executive, the power of detention without trial. To say that the Court may inquire into the sufficiency of the reasons for A. B.'s detention, was to say something which would be equivalent to making it competent for the Court to inquire as to be a departure from the spirit and purport of the Bill. I could not, therefore, with safety, I am advised, accept that wording of the amendment which Deputy Morrissey moved, making it by the Bill itself incumbent on the officer to state the reasons for detention, because once you insert that provision there is no means by which you could make it outside the jurisdiction of the Court to inquire into the sufficiency of these reasons. But I do give this undertaking, on my own behalf, and on behalf of the Executive Council, that in all cases the reasons will be insisted on, and will be certified, but I cannot agree to the insertion of this provision in the Bill for the technical reasons I have stated. I think the main object Deputy Morrissey wished to secure was simply that such a precaution would be taken, and that in practice the duty should lie on someone to set out clearly the reasons why a particular citizen's liberty was being interfered with; and he accepted my view that that ought to be merely a departmental, confidential record. He went further and stated, that there was no intention whatever of laying a trap, and no intention whatever of inserting in the Bill something that would, in fact, enable the Court to try the whole question of the rightness or wrongness of A.B.'s de-

tention, or the whole question of the sufficiency, or otherwise, of the reasons for it. Therefore, I think on that basis Deputies will agree that I am not departing from the spirit of any promise or undertaking I have given, in asking that these words be deleted from the Bill, because I do undertake that in all cases a record of that kind, a confidential departmental record, will be insisted on, and that in all cases the duty will lie on the officer who is taking on himself a responsibility for interfering, or recommending interference, with a citizen's liberty, to set out clearly and fully for the information of the Minister concerned, the grounds for that recommendation.

Mr. JOHNSON: The section in question deals with the continued detention of those at present in custody. The Minister has not given us an assurance that there are in the archives of his Department, or in any other Department, written reasons why A. B. or X. Y. Z., are in detention. In that case, if these words are removed it will be within the competence of the military authorities to continue the detention of persons, if they are of opinion that the detention of these persons is a matter of military necessity. In that case no reasons will have been stated even confidentially to the Department, and no one will have had imposed upon him the duty of finding out whether there was a reason for the detention of any prisoner or internee. The object of the amendment, which was accepted on the last occasion, was to ensure that somebody at least would have imposed upon him the duty of considering whether A. B. or C. D. ought to be detained, even though the reasons to be stated were only to be submitted for the Departments concerned; that at least somebody would have to consider the question, and give some reasons to a superior authority. Now, the Minister desires that that duty, which was imposed upon the military authorities on the last Stage of the Bill should be removed, and that no such liability should lie upon the military for their continued detention of prisoners. The Minister again tries to persuade the Dáil that because he gives an assurance that their intention is to do a certain thing, that there is no need to insert in the Bill a requirement that such a thing should be done. One could imagine such a plea at the

[Mr. Johnson.]

beginning of a Parliament, but one can only smile when one hears such a plea at the end of a Parliament. Suppose Deputy Gorey were to be Minister for Home Affairs—

Mr. O'HIGGINS: Will the Deputy allow me to intervene? I can, of course, only give an undertaking on my own behalf and on behalf of the Executive Council for our period of office. It will be for the next Dáil and those who are in the next Dáil to ask for any undertaking that they require from the next Executive Council.

Mr. JOHNSON: That is quite true, but this Dáil has imposed upon it the responsibility of making law and the new Dáil will have to be responsible for introducing new measures. If all the Acts that have been passed, or are proposed to be passed, have to go through the small tooth comb during the first weeks of the new Dáil to correct any mistakes that have been made or any injustices that have been inserted in Bills passed by this Dáil you will be putting upon that body an impossible task. It is much better, I submit, to avoid the necessity, if you possibly can, for those mistakes being corrected. The Minister gives us an assurance, and as he says he can only give an assurance respecting his own conduct, or the conduct of the Executive Council, of which he is a member. But we are now asked to pass a Bill, and that Bill will be the law, and it is under that Bill, or Act when it becomes the law, that the military authorities will exercise their option. If they are of opinion that military necessity requires that a person should be detained this Bill, if it passes in the form in which the Minister desires it, gives authority to these military powers to detain those persons simply by virtue of their opinion that such a person should be detained. They are not even to be asked to put down in writing for future reference why such a person is to be detained. The Minister explains his change of front in this matter because the phraseology in the amendment which he then accepted seems to carry with it certain legal liabilities. When the amendment was proposed there was no hidden meaning or understanding of legal technicalities of what was embodied in the words "for stated reasons." But it should be, I think, plain

commonsense that if an officer of State has to have power to detain a citizen for such time within six months as he desires, that at least he should have imposed upon him the responsibility of writing down to somebody, or setting down in a book or in a document, reasons why he thinks such continued detention is necessary. The Minister asks us to trust whoever may be the responsible Ministers for the next six months. When we are dealing with Acts of Parliament I think it is very unsatisfactory to be asked to trust to the wisdom and discretion of Executive Officers or Ministers for Defence, or even military captains. If the military authorities are of opinion that a person should be detained then they may detain him. I do not think there is any definition of military authority. It may even be that a subordinate officer would be deemed to be a military authority, and unless his act was brought before the notice of his superiors then he would be acting quite lawfully in detaining without reason. Somebody would have imposed upon him or her the responsibility of reporting the fact of the detention of a prisoner to the higher authority of the Army before the subordinate authorities of the Army could be brought into question. Subordinate officers are not to be asked to state any reason even for the information of their superior as to why a prisoner is to be detained. The explanation given by the Minister that the insertion of these words would bring the whole question of military detention under the purview of the Courts no doubt is serious from his point of view, and it is a credit to the law that that is the case. It shows how much more sane the law is than the mere opinion of a military authority. I am sorry that I cannot suggest any other method of ensuring at the very least before a citizen is detained that somebody would have imposed upon him the duty of saying, even to his superior officer, the reason why such a person is being detained. If the civil power is to have control of the military powers, and that is the justification that was originally adduced for the introduction of this Bill—that it was an attempt to bring the civil power into complete authority—surely it ought to be provided that the military authorities should say why they are detaining a prisoner and that they should have some

reason for detaining a prisoner, and not merely be acting upon an opinion or a spite or a spleen or a grudge, as might well be under this Section. I submit that it is the smallest demand that the Dáil should make upon the Ministry, that the reasons for a prisoner's detention should at least be written down by the person primarily responsible for that detention.

Mr. O'HIGGINS: The Deputy has emphasised the fact, or fiction, that the pledges of Executive Ministers are of no value and that it is the wording of the Bill that counts and must count—

Mr. JOHNSON: On a point of order, the Minister knows that I did not say anything of the kind. I said the pledges of the Ministers, as he himself admitted, only bound the Ministers who made the pledges and did not bind their successors.

Mr. O'HIGGINS: The Deputy will, I am sure, allow me to retort that it is not the benevolent intentions of the mover of an amendment that counts, but the legal effect of the amendment that is moved. I have pointed out that when, by the provisions of a Bill, a legal duty is imposed on any person to state reasons for the course he has taken, that it thereupon automatically comes within the competence of the Courts to inquire into the question of the sufficiency or insufficiency of those reasons. Because of that, I am unwilling to accept an amendment placing the legal duty upon an officer to set out the reasons for the arrest and detention of any person under this Bill. I submit that to bring within the purview of the Courts the question of the necessity or otherwise for the detention of a person is contrary to the spirit of the Bill. I did undertake that, as a matter of practice, in exercising the powers conferred by this Bill, such a precaution would be observed. I undertook that on my own behalf and on behalf of the Executive Council.

The Deputy in considering this amendment should advert to Amendment 6, which proposes to substitute for the words "in the present emergency or" the words "arising out of the existence of a state of war or armed rebellion, whether local or general or." In point of fact, the change is not material because action cannot be taken

based on military necessity otherwise than in a condition of war or armed revolt. Action cannot be justified as a military necessity save in those conditions. The power of arresting persons without charge and without reason stated is inherent in the military when conditions of war or armed revolt prevail. If we were to set out in this sub-section that reasons should be stated, then you would have a two-fold result. You would have the result that, as I have stated, you would place it within the competence of the Courts to enquire into the sufficiency of those reasons and you would have the result that you would be hampering, or attempting to hamper, the military in the exercise of powers which are inherent in them by virtue of a state of war or armed revolt. This Bill was introduced largely to deal with a situation that would arise when the Courts refuse to take the view of the military authorities that a state of war or armed revolt prevails. We were simply facing the fact that you have throughout the country the elements of serious trouble. The question of releasing the very large number of internees that are on hands at the moment must be approached guardedly and cautiously. To hold any of these the day or the week after the Courts decide that a state of war or armed rebellion no longer exists, it is necessary to obtain powers to hold all, and then proceed to use that discretion, that judgment, that knowledge of the situation which an Executive Council presumably possess as long as they hold the confidence of the representatives of the people. I have, with regard to this amendment, no concession to make. We have not been able to devise any form of words that would at one and the same time impose a legal duty on people to state their reasons for a particular course and at the same time exclude the consideration of those reasons by the Courts. Consequently, I have no alternative but to take the line set out in Deputy Duggan's amendment and to ask for the deletion of those words, on the understanding and on the undertaking I have given, that as a matter of practice, in the exercise of the powers which this Bill proposes to confer, that precaution will be taken of insisting that officers responsible for the arrest and detention of citizens will, in point of fact, be asked to set out their reasons for such recommendation.

CATHAL O'SHANNON: I hope that the Dáil, unlike the Minister, will not go back on its acceptance of the amendment that was introduced in Committee, but that it will insist on keeping those words in the sub-section. The Minister this evening, and repeatedly has shown what may be, from his point of view, justifiable distrust of the law, or rather of the Courts. That is not a position which I think the Dáil should take up. If there is a conflict between the legislative assembly and the military arm of the Executive, ordinary citizens, except there is something very extraordinary in it, should support the legislative assembly. One is tempted, when one hears a Minister arguing as he argued this evening, to wish that there were more professorial Deputies in the Dáil, because one feels that it would be good for the Dáil, occasionally, to be told that there are certain relations between the different branches of legislation—between that branch which makes laws, that branch which administers laws, and that branch which interprets the laws when so made, and whose function is to keep a check on the administration. The Minister, I think, has made it as clear as it can be that his intention really is to subordinate the Courts to the military arm. That is not a position which we, as a legislative Assembly, can support or ought to support.

Speaking frankly, and from experience, I do not trust the general body of officers in whose hands will really lie the decision on matters such as are dealt with in this sub-section. I have in my pocket a reply from the Military Authorities, dealing with a prisoner whose case I took up five or six months ago along with two others. While they agreed two or three months ago to release one or two of those prisoners, they still detain the third, and they tell me now that arrangements will be made for the release of the third. People who carry things over so long as that have got a peculiar conception of their duties in matters of that kind, and are not to be trusted when they merely express an opinion. No matter how much we appreciate the Minister's intentions it is not enough. We must have something more than Minister's intentions. Even his apparent concession in inserting earlier in the Bill, in the first Section the words "Arising out of the existence of a state of war or armed rebellion whether

local or general," does not go far enough. It does not go as far as to be satisfactory, because this sub-section deals with people who are at present in military custody. Now, if he gets the declaration from the military that in a certain area, there is a state of war or of armed rebellion, and, on that, confines or continues to keep in confinement, certain prisoners, what about the prisoners who are not from that area? What about the prisoners who are from the area in which there is not a state of war or armed rebellion? He can still keep them in spite of this provision about a state of war or armed rebellion locally. He can keep prisoners drawn from areas in which there is no state of war or armed rebellion recognised even by the military, not to speak even of the Courts, and he can do that without any stated reason being given by the military. The Bill does not require that reason to be given at all. It merely requires an expression of opinion on the part of the military. If there is anything like logic in the position, of course there would be nothing for him to do but to release all those who did not happen to hail from that disturbed area. He will not do that. He does not want to do that. Merely on the opinion of a military officer of certain rank he is going to detain them. The Dáil, I think, should not accept that amendment. It should insist on the position accepted by the Minister on the previous occasion, and agreed to by the Dáil, and leave these words as they were passed on the Committee Stage.

Mr. FITZGIBBON: I am sorry these words have been left out, because I do not share the apprehension of the Minister that they could be used in the way in which he fears they could be; but as he has been so advised, I would certainly like to say that I am quite clear he is not going back in any way on anything that he said on a former Stage of this Bill. When he did intimate that he was prepared to consider the acceptance of this amendment, he made it perfectly clear, to me at any rate, and I think to everybody else, that he could only do so on the assurance that the certificate which he agreed should be given, should not be capable of being investigated, and the reasons should not be advanced by anybody except himself or the military authority, or, in certain cases, the tribunal that would deal with the case

later on if it happened to come before them. If this amendment is pressed to a division I would consider myself bound to support it, because the amendment is giving effect to the undertaking the Minister himself gave, and he is carrying out the bargain made between himself and the Dáil when he said that he would consider whether this amend-

ment could be introduced or not, and that he would only agree to it on the understanding that the certificates could not be used in the manner in which he is now advised they might be. If he has that apprehension I think that he is perfectly entitled to have it removed, although I think it is ill-founded.

Amendment put.

The Dáil divided: Tá, 31; Níl, 8.

Tá.

Liam T. Mac Cosgair.
Gearóid Ó Suileabháin.
Seán Ó Duinnín.
Micheál Ó hAonghusa.
Peadar Mac a' Bháird.
Deasmhumhain Mac Gearailt.
Seán Ó Ruanaidh.
Micheál de Duram.
Seán Mac Garsaidh.
Pilib Mac Cosgair.
Micheál de Staincoas.
Domhnall Mac Cárthaigh.
Gearóid Mac Giobúin.
Liam Thrift.
Eoin Mac Néill.
Pádraig Ó hÓgáin.

Pádraic Ó Máille.
Seoirse Mac Niocaill.
Caoimhghin Ó hUigín.
Fionán Ó Loingsigh.
Cristóir Ó Broin.
Seán Mac Eoin.
Próinsias Mac Aonghusa.
Eamon Ó Dúgáin.
Peadar Ó hAodha.
Seamus Ó Murchadha.
Seosamh Mac Giolla Bhrighde.
Liam Mac Sioghaird.
Tomás Ó Domhnaill.
Earnán de Blaghd.
Uinseann de Faoite.

Níl.

Riobárd Ó Deaghaidh.
Tomás Mac Eoin.
Liam Ó Briain.
Tomás Ó Conaill.

Aodh Ó Cúlacháin.
Seán Ó Laidhin.
Cathal Ó Seanáin.
Domhnall Ó Ceallacháin.

Amendment declared carried.

Mr. DUGGAN: I beg to move the following Amendment, which is identical with Amendment No. 1.

In Section 3 (1) (a), page 3, lines 32 and 33, to delete the words "in the present emergency or" and to insert in lieu thereof the words "arising out of the existence of a state of war or armed rebellion, whether local or general, or."

Amendment agreed to.

Mr. DUGGAN: I beg to move the following amendment, which is identical with No. 5.

In Section 3 (1) (b), page 3, line 35, to delete the words "certifies in writing that for stated reasons he."

Mr. JOHNSON: The reasons against this amendment, I admit, are not quite so strong as against the last. There is more reason for expecting a sense of responsibility in an Executive Minister than in a military officer. Nevertheless, the principle is a bad one, and I must oppose it.

Amendment put.

The Dáil divided: Tá, 85; Níl, 8.

Tá.

Séan Ó Duinnín.
Liam T. Mac Cosgair.
Gearóid Ó Súilleabháin.
Micheál Ó hAonghusa.
Seamus Brea'nach.
Peadar Mac a' Bháird.
Deasmhurnhain Mac Gearailt.
Seán Ó Ruanaidh.
Mícheál de Duram.
Seán Mac Garaídh.
Pilib Mac Cosgair.
Mícheál de Staineas.
Domhnall Mac Cárthaigh.
Gearóid Mac Giobúin.
Liam Thrift.
Eoin Mac Néill.
Liam Mac Aonghusa.
Pádraig Ó hÓgáin.

Riobárd Ó Deaghaidh.
Tomás Mac Eoin.
Liam Ó Briain.
Tomás Ó Conaill.

Pádraic Ó Máille.
Seorise Mac Niocáil.
Piaras Béislá.
Fionán Ó Loingigh.
Cristóir Ó Broin.
Caoimhghín Ó hUigín.
Aindriú Ó Laimhin.
Séar Mac Eoin.
Próinsias Mac Aonghusa.
Eamon Ó Dúgáin.
Peadar Ó hAodha.
Seamus Ó Murchadha.
Seosamh Mac Giolla Bhrighde.
Liam Mac Sioghaird.
Tomás Ó Lomhnaill.
Earnán de Blaghd.
Uinseann de Faoite.

Aodh Ó Cúlacháin.
Seán Ó Laidhin.
Cathal Ó Seánáin.
Domhnall Ó Ceallacháin.

Amendment declared carried.

Mr. DUGGAN: I move:—"In Section 3 (2), page 3, line 42, to insert after the word 'unexpired' the words 'or discharged.'" The object of the amendment is to ensure that the power of pardoning a prisoner is preserved. When a prisoner is pardoned he is technically stated to be discharged.

Agreed.

Mr. DUGGAN: I move:—"In Section 4 (4), (a), page 3, line 65, to insert after the word 'act' the word 'or.'" This is to correct a clerical error.

Agreed.

Mr. DUGGAN: I move Amendment No. 10:—"In Section 5 (4), page 4, line 56, to insert after the word 'court' the words 'is satisfied that there are special circumstances in the case which constitute a mitigation of the offence, or.'" The object is to prevent the provision for the introduction of corporal punishment to be made compulsory and to give the judge discretion.

Agreed.

Mr. DUGGAN: I move:—"In Section 7, lines 63, 64, 65, page 5, to delete all from the word 'repay' to the word 'him,' inclusive, and to insert in lieu thereof the words 'before such stolen

property is actually restored to him, repay or return to the Minister for Finance such compensation or such lesser sum as may be deemed by such Minister to be the fair value of such stolen property at the time of the restoration thereof.'" The purpose of this amendment is that when a person has received compensation for property stolen and such property is subsequently returned to him in a damaged condition he will not have to return the whole of the compensation, but only as much as represents the property in its damaged condition.

Agreed.

Amendment 12, by **Messrs. R. CORISH and D. O'CALLAGHAN:** "In Section 7, page 5, line 64, to insert after the word 'compensation' the words 'or such lesser amount as may be deemed by the Minister for Finance to be the fair value of such stolen property at the time of restoration.'"

AN CEANN COMHAIRLE: Amendment 11 contains all that there is in Amendment 12.

Amendment not moved.

AN LEAS-CHEANN COMHAIRLE took the Chair at this stage.

Amendment by Mr. O'CONNELL: "In Section 10 (1), page 7, to delete from the word 'unless,' line 13, to the word 'untrue,' line 15, inclusive, and substitute therefor the words 'if he is satisfied that such allegation is true.'"

Mr. O'CONNELL: I formally move the amendment.

Mr. O'HIGGINS: The effect of the Deputy's amendment is to shift the onus of proof in the matter which the Section covers from the person who was suspected of having acquired the property wrongfully to the Executive. It would substantially alter the effect of the Section and it is not acceptable. This particular Section is, as I explained on the Committee Stage, an extension and adaptation of provisions that already exist in the Dublin Metropolitan Police Acts and the wording is taken from these Acts. It provides that application may be made by "An Executive Minister to a District Justice alleging that land, investments or other property in the possession or control of any person was bought by such person with, or otherwise represents, or is directly or indirectly derived from any stolen property or funds, or any public funds, or funds which ought to be in the custody of a Minister or a Government Department." It goes on to say that in such an event "The District Justice shall, unless the person having possession or control of such lands, investments or property satisfies him that such allegation is untrue, order the transfer of such property in so far as it consists of land, to the Irish Land Commission, and in so far as it consists of investments or other property to the Minister for Finance." The Deputy may consider that this amendment is a small matter, that it simply has the effect of putting the matter

positively rather than negatively, but in point of fact, it does definitely shift the onus of proof. In times like the present, when there has been so much promiscuous robbery and looting as there has been within recent months, it is not a hardship to provide that an individual may be called upon to clear himself of the suspicion of having come by certain property wrongfully, and that is the aspect that we wish to preserve, that it is within the power and within the province of the Executive to put an individual citizen on proof of having come by property within his possession honestly and rightfully. The *prima facie* case will be placed before the District Justice. The onus of rebutting that suspicion is placed on the individual citizen, and this provides that in the event of his failing to rebut the suspicion on which the Executive moves, that the District Justice shall order the transfer of such property, if it be land to the Land Commission, and if it consists of investments to the Minister for Finance. Further on, Sub-section 5 provides for an appeal from the District Justice to the County Court Judge, and it provides that "an order of the County Court Judge on the hearing of any such appeal shall have the same operation as a like order by a District Justice." The Deputy's wording puts on the State practically the burden of proof, and practically demands that conclusive evidence, evidence with which a District Justice will be entirely satisfied, shall be produced by the Executive. What is asked is that where reasonable suspicion rests, the onus should lie on the citizen to clear himself of that suspicion, and to show, in fact, what it ought to be easy for any citizen to do, that the particular piece of property in his possession came honestly and justly into his possession.

Amendment put.

The Dáil divided: Tá, 9; Níl, 30.

Tá.

Riobárd Ó Deaghaidh.
Tomás Mac Eoin.
Liam Ó Briain.
Tomás Ó Conaill.
Aodh Ó Cúlacháin.

Seán O Laidhin.
Cathal Ó Seanáin.
Domhnall Ó Muirghéasa.
Domhnall Ó Ceallacháin.

Ni..

Liam T. Mac Cosgair.
 Gearóid Ó Súilleabháin.
 Mícheál Ó hAonghusa.
 Séamus Breathnach.
 Peadar Mac a' Bháird.
 Deasmhumhain Mac Gearailt.
 Mícheál de Duram.
 Seán Mac Garaidh.
 Pilib Mac Cosgair.
 Domhnall Mac Carthaigh.
 Gearóid Mac Giobáin.
 Liam Thrift.
 Eoin Mac Néill.
 Liam Mac Aonghusa.
 Pádraig Ó hÓgáin.

Seoirse Mac Niocaill.
 Fionán Ó Loingsigh.
 Criostóir Ó Broin.
 Caoimhghin Ó hIlígin.
 Aindriú Ó Laimhín.
 Seán Mac Eoin.
 Próinsias Mac Aonghusa.
 Eamon Ó Dúgáin.
 Peadar Ó hAodha.
 Séamus Ó Murchadha.
 Seosamh Mac Giolla Bhrighde.
 Liam Mac Sioghaird.
 Tomás Ó Domhnaill.
 Uinseann de Faote.
 Darghal Fíges.

Amendment declared lost.

CATHAL O'SHANNON: I beg to move in Sub-section (2) of Section 11, on page 8, to delete all from the words, "and is not mine," line 13, to the word "Department," inclusive, on line 18.

Mr. O'HIGGINS: The effect of the Deputy's amendment would be simply to place the onus on an individual to show that certain money belonged to him, that, in fact, he could operate on it and might lodge it to his credit, and that he could draw on it and exercise all the prerogatives of proprietorship. The whole object of this Section is to enable stolen property or stolen funds to be traced and forfeited to the Ministry of Finance. The Section says: "Any stolen property or funds, or any public funds, or funds which ought to be in the custody or under the control of a Minister or a Government Department."

There have been robberies on the grand scale inside the last ten or twelve months. Banks were held up and large sums of money stolen; Post Offices have been raided and valuable property has been looted throughout the country. If these, or any considerable proportion of them, are to be successfully traced, we must have power to ask more from an individual than simply to show that he has actual possession and control of money and can operate with it. He must be in a position to show that it came honestly into his possession, and that it is not stolen property or funds or the proceeds of stolen property. That is the power that is asked for. It was difficult to find the exact form of words to cover that. In a Bill of this kind power is to be given, and power is to be asked for, with some appreciation of the fact that it will be used with due discretion,

and used in such a manner that hardship will not ensue. The Minister for Finance, if he is to be at all successful in tracing all or any of the large sums that are being stolen throughout the country, must get more power than the Deputy's amendment leaves. He must get power of following up stolen property, and of asking an individual, reasonably suspected of having property or funds wrongfully in his possession, to show that these are not the proceeds of robbery or the proceeds of theft, and not merely that they belong to him, but that he came rightfully and lawfully by them, and that he is not merely a middleman or an accomplice in the robbery of property or of funds which are not his. If you had no power of tracing funds after they had actually passed from the hands of the robber, then the Executive would be in a very helpless condition; if you had no power of tracing the proceeds of property after the robber would have succeeded in liquidating it, then you would be practically helpless, because it is not to be supposed that people having committed a robbery, or people having conspired to plunder, will remain for any very long period in actual possession of the proceeds of that crime. They will take steps to pass it on, to have it in someone else's name, as has been done to our knowledge with the proceeds of bank robberies in Cork and elsewhere. The powers asked here are not excessive, if we are to have any hope of achieving the end at which the Bill aims, the end of following up and, as far as possible, restoring to the lawful owner property or funds that have been stolen through the country.

Amendment put.

The Dáil divided: Tá, 9; Níl, 34.

Tá.

Riobárd Ó Deaghaidh.
Tomás Mac Eoin.
Liam Ó Briain.
Tomás Ó Conaill.
Aodh Ó Cúlacháin.

Seán Ó Laidhin.
Cathal Ó Seánáin.
Domhnall Muirghessa.
Domhnall Ó Ceallacháin.

Níl.

Liam T. Mac Cosgair.
Gearóid Ó Súilleabháin.
Uaitéar Mac Cumhaill.
Seán Ó Duinnín.
Micheál Ó hAonghusa.
Seamus Breathnach.
Peadar Mac a' Bháird.
Deasmhumhain Mac Gearailt.
Seán Ó Ruanaidh.
Micheál de Turam.
Seán Mac Garaidh.
Pilib Mac Cosgair.
Domhnall Mac Cárthaigh.
Sir Seamus Craig.
Gearóid Mac Giobúin.
Liam Thrift.
Eoin Mac Néill.

Liam Mac Aonghusa.
Pádraig Ó hÓgáin.
Seoirse Mac Niocaill.
Fionán Ó Loingsigh.
Cristoir Ó Broin.
Caoimhghín Ó hUigín.
Aindriú Ó Laimhín.
Seán Mac Eoin.
Próinsias Mac Aonghusa.
Eamon Ó Dúgáin.
Peadar Ó hAodha.
Seamus Ó Murchadha.
Seosamh Mac Giolla Bhrighde.
Liam Mac Sioghaird.
Tomás Ó Lomhnaill.
Earnán de Blaghd.
Uinseann de Faoite.

Amendment declared lost.

Mr. JOHNSON: I beg to move the deletion of Section 12, page 8 (amendment 15).

Mr. O'HIGGINS: The Deputy will remember that this Bill has a life-time of only six months; that it is intended to deal with a very special set of circumstances, to deal with a situation in which we find ourselves emerging from a war-period, and in which we cannot afford to ignore the possibility of local recrudescences. The Deputy does us too much credit if he thinks we have so far succeeded in our task that such a thing as intimidation of jurymen would not be possible in any county at the moment, or would not be possible in the near future.

This Section faces the fact that conditions might well exist in a particular area, or might well even grow up about a particular place, which would render a fair and impartial trial of the case impossible in that particular area, and it asks power that the venue may be changed when an application by or on behalf of the Attorney-General—

Mr. JOHNSON: "Shall be changed." There is no option left to the Judge.

Mr. O'HIGGINS: "Shall be changed when the Attorney-General enters his certificate to the effect that he believes that a more fair and more impartial trial can be had at a Court and in a County named in such certificate." We think that that is not an unreasonable request in all the circumstances of the country, in view of the fact that a very defiant and very criminal mentality has been created in the country, and in view of the fact that lethal weapons and explosives are secreted throughout the country. In the presence of all these elements which are calculated to weigh in the minds of jurymen and calculated to deter them from the proper and responsible discharge of their duties, the Executive itself is the best judge of the conditions in a particular area, and when the Attorney-General, on behalf of the Executive, enters his certificate to the effect that in his belief a more fair trial and a more impartial trial can be secured elsewhere than in the particular area and venue of the crime or of the case, then we see no reason why power should not be given by the Dáil for a change of venue of that kind.

Amendment put.

The Dáil Divided: Tá, 10; Níl, 32.

Tá.

Riobárd Ó Deaghaidh.
Tomás Mac Eoin.
Liam Ó Briain.
Tomás Ó Conaill.
Aodh Ó Cúlacháin.

Seán Ó Laidhin.
Cathal Ó Seanáin.
Domhnall Ó Muirgheasa.
Domhnall Ó Ceallacháin.
Seoirse Ghabhain Uí Dhubhthaigh.

Níl

Liam T. Mac Cosgair.
Gearóid Ó Suileabháin.
Uáitéar Mac Cumhaill.
Seán Ó Duinnín.
Micheál Ó hAonghusa.
Seamus Breathnach.
Peadar Mac a' Bháird.
Deasmhumhain Mac Gearailt.
Seán Ó Ruanaidh.
Micheál de Duram.
Seán Mac Garaidh.
Pilib Mac Cosgair.
Domhnall Mac Carthaigh.
Sir Seamus Craig.
Liam Thrift.
Eoin Mac Néill.

Liam Mag Aonghusa.
Pádraig Ó hÓgáin.
Seoirse Mac Niocaill.
Fionán Ó Loingsigh.
Cristóir Ó Broin.
Caoimhghin Ó hUigín.
Aindriú Ó Laimhín.
Próinsias Mag Aonghusa.
Eamon Ó Dúgáin.
Peadar Ó hAodha.
Seamus Ó Murchadha.
Seosamh Mac Giolla Bhrighde.
Liam Mac Sioghaird.
Earnán de Blaghd.
Micheál de Stáineas.
Alasdair Mac Caba.

Amendment declared lost.

MOTION FOR LATE SITTING.

Mr. O'HIGGINS: It may be necessary to sit after the usual hour for adjourning this evening, for the consideration of this Bill, which is urgent. I beg, therefore, to move:—"That the Dáil

sits later than 8.30 p.m. if necessary for the consideration of the Public Safety (Emergency Powers) Bill, 1923."

Mr. HOGAN: I beg to second.

Motion put.

The Dáil divided: Tá, 26; Níl, 9.

Tá.

Liam T. Mac Cosgair.
Gearóid Ó Suileabháin.
Peadar Mac a' Bháird.
Deasmhumhain Mac Gearailt.
Seán Ó Ruanaidh.
Micheál de Duram.
Seán Mac Garaidh.
Pilib Mac Cosgair.
Domhnall Mac Carthaigh.
Sir Seamus Craig.
Liam Thrift.
Eoin Mac Néill.
Liam Mag Aonghusa.

Pádraig Ó hÓgáin.
Seoirse Mac Niocaill.
Caoimhghin Ó hUigín.
Fionán Ó Loingsigh.
Cristóir Ó Broin.
Aindriú Ó Laimhín.
Eamon Ó Dúgáin.
Peadar Ó hAodha.
Seamus Ó Murchadha.
Seosamh Mac Giolla Bhrighde.
Liam Mac Sioghaird.
Tomás Ó Domhnaill.
Earnán de Blaghd.

Níl.

Riobárd Ó Deaghaidh.
Tomás Mac Eoin.
Liam Ó Briain.
Tomás Ó Conaill.
Aodh Ó Cúlacháin.

Seán Ó Laidhin.
Cathal Ó Seanáin.
Domhnall Ó Ceallacháin.
Domhnall Ó Muirgheasa.

Motion declared carried.

[FOURTH STAGE CONTINUED.]

Mr. COLOHAN: I beg to move the following amendment:—

In Section 12 (1), page 8, line 47, to delete the word "shall" and to substitute therefor the words "may at its discretion."

Mr. O'HIGGINS: I regret that I cannot accept the amendment. As I stated in dealing with the previous amendment, the Executive, if it is competent at all to perform the functions entrusted to it by the Dáil, is also competent to form an estimate with regard to the conditions existing in a particular area, and with regard to the possibilities of a fair and just trial of the particular cases in that area. The difficulty in dealing with some of these amendments is that it would be perfectly right and perfectly proper to accept them if we could feel that all citizens are as responsible and as conscientious as the people, say, who move the amendment; but we know they are not, and we know also there is far more physical courage in this country at the moment than there is moral courage, and that jurymen, in deciding on particular cases, are subject to local influences, local passions and prejudices of one kind or another that do amount to and constitute an impossibility of securing a fair and impartial hearing of certain cases, at any rate in the areas in which these cases arise.

Mr. JOHNSON: The Minister realises that this is touching all kinds of cases.

Mr. O'HIGGINS: Yes, I realise it. I am not speaking on this matter without the book. I do know that recently, even within the last few months, cases here and there in particular counties have been considered by juries, and have been decided upon in direct conflict with the evidence tendered to the juries. That is rather a painful admission. It shows that we have yet some way to go before we arrive at proper standards of civic responsibility and proper standards of civic duty, the duty that lies towards the State from the citizens, corresponding to the duty that lies from the State towards the citizens. In the times through which we are passing, this provision in the Bill is absolutely necessary if justice is to be done within our territory. The suggestion in this particular amendment

is that the matter be one for the discretion of the Court, that the Attorney-General merely puts forward particular representations, or puts forward a particular case, and that the Court shall discuss and decide that. That is objectionable. From the very nature of his position the Attorney-General is the responsible officer of the State. His certificate to the effect that a fair trial of the case cannot be held within a particular area ought to be final and ought to be accepted by the Courts. Very often all the reasons which render it difficult or impossible to secure a fair trial within a particular area cannot be fully stated, or are of such a nature that it would not be in the public interest to state them fully. I have a particular case in mind, a case arising in the Midlands that certainly ought not to be tried in the locality in which it arose, and it would be difficult and inadvisable to state here or to state publicly in the Courts all the reason for that. It is not excessive in a Bill of this kind which deals with a special period, and a special emergency, to ask the Dáil to say that when the highest Law Officer of the State submits a certificate to the Courts that a particular case could not be fairly or impartially tried in a particular area that that ought to be final for the Court, and that the Court without any further discussion or deliberation should order a change of venue for that case. In considering these and other powers conferred by the Bill I merely want to repeat and to stress that it depends upon the spirit in which Deputies think that these powers would be wielded and exercised. If Deputies consider that this particular power could be made an instrument of tyranny I say that practically every power conferred by this Bill could be made an instrument of tyranny. But if Deputies do sincerely believe that an Executive responsible to them, responsible through them to the people, is of such a kind that it would be certain or likely to use these powers in that way, then there certainly ought to be a change of Executive. You are not dealing now with arbitrary Government imposed upon the people by force from elsewhere. You are dealing with an Executive responsible to the people through their elected representatives, and if we were a body that could not safely be entrusted with this power, or with other powers conferred by this Bill, then we ought not to be in

[Mr. O'Higgins.]

our present position at all and the representatives of the people ought to elect to this position people more worthy. The difficulty I have had in dealing with amendments to this Bill, and in defending the provisions of this Bill, is just that difficulty that I do realise the Bill, in its nakedness, in the letter of its provisions, could be made a vehicle of tyranny, and I have had repeatedly to ask Deputies to remember that its powers had to be exercised by an Executive responsible from

day to day to the people's representatives here and if in the interest of the common weal and of the public safety we were thought to be people to whom these powers could not be entrusted then it would be better that there were a change and that people were selected who could be entrusted with drastic and far-reaching powers, in full confidence that they would be used with discretion and used only in the public interest.

Amendment put.

The Dáil divided: Tá, 9; Níl, 33.

Tá.

Riobárd Ó Deaghaidh.
Tomás Mac Eoin.
Liam Ó Briain.
Tomás Ó Conaill.
Aodh Ó Cúlacháin.

Seán Ó Laidhin.
Cathal Ó Seánáin.
Domhnall Ó Muirgheasa.
Domhnall Ó Ceallacháin.

Níl

Liam T. Mac Cosgair.
Gearóid Ó Séileabháin.
Uáitéar Mac Cumhaill.
Seán Ó Duinnín.
Micheál Ó hAonghusa.
Seánus Breathnach.
Peadar Mac a' Bháird.
Deasmhumhain Mac Gearailt.
Seán Ó Ruanaidh.
Micheál de Duram.
Seán Mac Gearailt.
Pilib Mac Cosgair.
Domhnall Mac Cárthaigh.
Sir Seánus Craig.
Gearóid Mac Giobáin.
Liam Thrift.
Eoin Mac Néill.

Liam Mac Aonghusa.
Pádraig Ó hÓgáin.
Seoirse Mac Niocaill.
Fionán Ó Loingsigh.
Cristóir Ó Broin.
Caoimhghin Ó hUigín.
Próinsias Mac Aonghusa.
Eamon Ó Dúgáin.
Peadar Ó hAodha.
Seánus Ó Murchadha.
Seosamh Mac Giolla Bhrighde.
Liam Mac Sioghaire.
Tomás Ó Domhnaill.
Earnán de Blaghd.
Uinseann de Faoite.
Micheál de Stáineas.

Amendment declared lost.

Mr. DUGGAN: I beg to move:—"In Section 13 (b), page 8, line 64 to insert after the word 'management' the word 'sanitation.'" The object of the amendment is to enable regulations to be made to ensure proper sanitation in prison camps.

Agreed.

Mr. DUGGAN: I move:—"In Section 13, page 9, line 2, to insert immediately after paragraph (c) the following new paragraph:—

(d) Providing for the medical, surgical and nursing care of the persons so detained."

That amendment explains itself.

Agreed.

Amendment by **Messrs. DAY and O'CONNELL:**—"To add to Section 13, page 9, a sub-section as follows:—

'Regulations made under this sub-section shall make provision for securing the proper sanitation of every prison, internment camp, or other place in which persons are detained in custody under this Act, and for enabling the persons detained therein to receive adequate medical, surgical and nursing attention and care, whenever needed, and for the inspection of every such prison, internment camp, or other place of detention, and the visiting of any person therein by any member of the Oireachtas.'

AN LEAS-CHEANN COMHAIRLE:

This amendment is affected by the two previous amendments, and the portion of it not provided for in the two amendments is, "To add to Section 13, page 9, a sub-section as follows:—

'Regulations made under this sub-section shall make provision for the inspection of every such prison, internment camp, or other place of detention, and the visiting of any person therein by any member of the Oireachtas.'

Mr. O'CONNELL: I move the amendment as read out by you.

Mr. O'HIGGINS: Deputy O'Connell's amendment is covered substantially by the official amendments that have been inserted, Numbers 17 and 18. The only portion of it that is not so covered, I think you will agree with me, is the portion providing for visits by members of the Oireachtas—"The visiting of any person therein by any member of the Oireachtas." That is the only portion of Deputy O'Connell's amendment that is unacceptable, and that we propose to contest. Deputies can visualise for themselves the effect it would have on the discipline and control of places of detention if any member of the Oireachtas could visit any prison, and Deputies can imagine too, most of them from their own recollections, the amount of material that would be awaiting each such visitor, the amount of false propaganda that would be awaiting such visit, and if Deputies lack that degree of imagination that will enable them to visualise the conditions, I am afraid I can contribute very little towards helping them. It is always the same thing, that one could imagine visits by certain Deputies to these places of detention as absolutely innocuous, and one could imagine visits by other Deputies as extremely injurious to the discipline of these places, and calculated to provoke nothing but mischief, and mischief of a particularly futile kind, yet one cannot discriminate. When confronted with an amendment containing a provision of that kind, there seems to be no alternative but to take a stand strictly on this, that it is not possible to make a concession of that kind. In discussing an amendment by Deputy Gavan Duffy we had before us the question of

admitting certain medical members of either House of the Oireachtas, and that amendment was discussed and defeated.

This probably goes even further and says that any member of the Oireachtas, any Senator or any Teachta should be free to visit any detained person and presumably every detained person. Now I do submit that there is no more case for that than for allowing, let us say, Deputies to visit and inspect every Department and see just how each department is run, how each official is doing and generally to overhaul the whole Executive machine. That is not among the privileges of Deputies. The Executive machine is judged by its results and if these results are unsatisfactory to Deputies then Deputies take the obvious and proper course. This provision is pretty much upon all fours with that. The proposal that any Deputy, and even any Senator who is not in a representative capacity—the Seanad being constituted as it is at the moment—that any member of either House should be free to visit detention camps, and to interview any and every prisoner is something which we hold to be improper and a challenge to the proper position and proper function of the Executive, and something which I believe would not be admitted or accepted by any Executive Government anywhere. I have no desire whatever to mention names of Deputies, but with the knowledge of the situation existing in this Dáil and the relation between the Government and certain Deputies one can well imagine endless mischief being created by a provision of this kind—futile fractious mischief—and one can imagine the interest and anxiety with which each visit of certain Deputies would be awaited and the amount of frivolous material that would be piled up in anticipation of his coming. I do not believe that any Executive could with propriety accept an amendment of that kind and I do not believe that Deputies who are moving, or Deputies who will vote for it, if they were in a position of primary responsibility for discipline and proper control over places of detention, would entertain a suggestion of this kind.

Amendment put.

The Dáil divided: Tá, 9; Níl, 32.

Tá.

Riobárd Ó Deaghaidh.
Tomás Mac Foin.
Liam Ó Brisin.
Tomás Ó Conaill.
Seán Ó Laidhin.

Cathal Ó Seanáin.
Domhnall Muirghessa.
Domhnall Ó Ceallacháin.
Seoirse Ghabháin Uí Dhubhthaigh.

Níl.

Liam T. Mac Cosgair.
Gearóid Ó Súilleabháin.
Seán Ó Duinnín.
Micheál Ó hAonghusa.
Seamus Breathnach.
Peadar Mac a' Bháird.
Deasmhumhain Mac Gearailt.
Seán Ó Ruanaidh.
Micheál de Duram.
Seán Mac Garaidh.
Pilib Mac Cosgair.
Domhnall Mac Cárthaigh.
Sir Seamus Craig.
Gearóid Mac Giobáin.
Liam Thrift.
Eoin Mac Néill.

Liam Mag Aonghusa.
Seoirse Mac Niocaill.
Fionán Ó Loingsigh.
Cristóir Ó Broin.
Caoimhghin Ó hUigín.
Próinsias Mag Aonghusa.
Eamon Ó Dúgáin.
Peadar Ó hAodha.
Seamus Ó Murchadha.
Seosamh Mac Giolla Bhrighde.
Liam Mac Sioghaird.
Tomás Ó Domhnaill.
Earnán de Blaghd.
Uinsenn de Faoite.
Micheál de Staines.
Seamus Ó Dóiláin.

Amendment declared lost.

Mr. Gerald FitzGibbon took the Chair at this stage.

Mr. O'BRIEN: I beg to move Amendment 20 to insert in Section 15, page 9, before the word "notwithstanding" on line 12, the words "save in respect of the powers expressly conferred and the procedure expressly prescribed by this Act."

Mr. O'HIGGINS: The purpose of Section 15, as it stands in the Bill, is to preserve the Common Law powers which vest in the Army by virtue of military necessity, and by virtue of the fact that the restoration of order in the country has been entrusted to the Army. The effect of the Deputy's amendment would be to put an end to that Common Law power, at least where it overlaps the powers given by this Bill, and probably to put an end to it altogether. I am advised that that in fact would probably be the effect of the acceptance of the Deputy's amendment. Now in a transition stage between war and peace, between a condition of anarchy and armed revolt and settled conditions, the Executive feels that it must have both the Common Law powers arising from military necessity, and the Statutory powers which this Bill proposes to confer, so that we could pass gradually and easily from the former to the latter, pass from the former to the latter not for the whole country simultaneously, but for areas as order is pro-

gressively restored throughout the country. The Bill applies to the whole country, and if the Statutory powers are to be substituted for the Common Law powers, that substitution would take place simultaneously for the whole country, whereas what is wanted is the gradual transfer from the one to the other, the Common Law powers gradually, easily and naturally giving way first to the Statutory powers conferred by this Bill, and subsequently at the termination of this Bill to the ordinary rule of civil authority. We have tried to visualise the situation that will exist in the country, probably during the next six months. It is not contested that, if the improvement of the last three or four months continues, and continues progressively at the same rate as has been maintained, say, since January or February, that it will be possible to rely less and less on the plea of military necessity, and to confine the actions of the troops more and more to strict Statutory limitations. But in the conditions that exist, and with all the elements of trouble that still exist, and exist so largely through the country, we could not, by the acceptance of this amendment, derogate, or seem to derogate, from the Common Law powers of the military that are vested in them when a military situation arises. It is conceivable that we might have a patchwork situation in the country; and it is conceivable that there will not be

general acceptance by those who have been in revolt against the Government, for the termination of hostilities which was so recently announced by one who may or may not prove to be their leader. But it is not a matter in which you can take risks; it is not a matter in which you can afford to have your troops taking certain action which, to them, seems necessary to cope with the military situation, and the Courts later saying that by reason of a particular wording in this Bill we have, in fact, excluded the use of such powers.

There is overlapping between the powers which this Bill proposes and the Common Law powers of the military, and I am advised that by the acceptance of this amendment, in fact by any change in the wording of Section 15, I would be running serious risk of encroaching, or seeming to encroach, on the powers which the military have, and which the military ought to have, to deal with a situation of war or armed revolt. I regret therefore I cannot accept the Deputy's amendment.

Amendment put.

The Dáil divided: Tá, 9; Níl, 31.

Tomás Mac Eoin
Seoirse Ghabháin Uí Dhubhthaigh.
Liam Ó Briain.
Tomás Ó Conaill.
Aodh Ó Cúlacháin.

Seán Ó Laidhin.
Cathal Ó Seanáin.
Domhnall Ó Muirghessa.
Domhnall Ó Ceallacháin.

Níl.

Liam T. Mac Cosgair.
Gearóid Ó Suileabháin.
Uaitear Mac Cumhaill.
Micheál Ó hAonghusa.
Seamus Breathnach.
Peadar Mac a' Bháird.
Darghal Fíges.
Micheál de Duram.
Seán Mac Garaidh.
Pilib Mac Cosgair.
Micheál de Staineas.
Domhnall Mac Cárthaigh.
Sir Seamus Craig.
Liam Thrift.
Liam Mac Aonghusa.
Pádraic Ó Máille.

Seoirse Mac Niocaill.
Fionán Ó Loingsigh.
Cristóir Ó Broin.
Caoimhghin Ó hUigín.
Seamus Ó Dóláin.
Aindriú Ó Láimhín.
Próinsias Mac Aonghusa.
Eamon Ó Dúgáin.
Peadar Ó hAodha.
Seamus Ó Murchadha.
Seosamh Mac Giolla Bhrighde.
Liam Mac Sioghaire.
Tomás Ó Domhnaill.
Earnán de Blaghd.
Uinseann de Faioite.

Amendment declared lost.

ACTING CHAIRMAN (Mr. Fitz-Gibbon): Amendments 21 and 22 deal with the same word in the next Section. I do not know what the effect of Deputy Duggan's amendment will be upon the amendment in the name of Deputy O'Callaghan.

Mr. O'CALLAGHAN: I formally move amendment 21—in Section 16, page 9, line 22, to delete the word "captain" and to substitute therefor the word "Colonel."

Mr. O'HIGGINS: There is evidently a division of opinion between the Wicklow Deputies as to the exact rank the responsible officer ought to hold. I prefer the view of Deputy Everett that "Commandant" ought to be the rank of the responsible officer mentioned in the Bill, and I am inclined to agree that it was proper to raise the rank from that of

Captain. I propose to accept the next amendment (22) but not the amendment moved by Deputy O'Callaghan. It is not an amendment that one could have much controversy about but the area that is in general charge of a colonel is rather too large to allow direct personal contact with every case. As that is advisable, we have thought that the Battalion area, normally commanded by a Commandant, is about as large as one man could be made directly or personally responsible for. We incline to the view that arrests made by the military under the provisions of this Bill ought to be made on the authority and on the personal responsibility of a Commandant commanding a Battalion area, rather than on that of a Colonel. After all, the rank of Colonel attaches normally to the second in command of the entire area commanded by

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a G.O.C. That is rather a large jurisdiction to put in a personal direct way upon one man for the purpose of this Bill. I think the Deputy ought to reconsider his amendment and to agree with the official view that a Battalion area is quite large enough within which to impose a personal responsibility for arrests under the provisions of this Bill, and to agree that the rank of Commandant

is sufficiently high to secure a discreet and responsible discharge of duty.

ACTING CHAIRMAN: Having heard the explanation of the Minister, would Deputies O'Callaghan and Lyons be disposed to withdraw their amendment, the Minister having intimated that he would accept the amendment in the names of Deputies Corish and Everett?

Mr. LYONS: No.

Amendment put.

The Dáil divided: Tá, 9; Níl, 28.

Tá

Liam Mag Aonghusa.
Tomás Mac Eoin.
Liam Ó Briain.
Tomás Ó Conaill.
Aodh Ó Cúlacháin.

Seán Ó Laidhin.
Cathal Ó Seanáin.
Domhnall Ó Muirgheasa.
Domhnall Ó Ceallacháin.

Níl.

Liam T. Mac Cosgair.
Gearóid Ó Súilleabháin.
Uaitéar Mac Cumhaill.
Mícheál Ó hAonghusa.
Seamus Breathnach.
Peadar Mac a' Bháird.
Darghal Fíges.
Mícheál de Duram.
Seán Mac Garaidh.
Pilib Mac Cosgair.
Domhnall Mac Cárthaigh.
Sir Seamus Craig.
Liam Thrift.
Pádraic Ó Máille

Seoirse Mac Niocaill.
Fionán Ó Loingsigh.
Cristóir Ó Broin.
Caoimhghin Ó hUigin.
Seamus Ó Dólaín.
Aindriú Ó Laimhín.
Próinsias Mag Aonghusa.
Eamon Ó Dúgáin.
Peadar Ó hAodha.
Seamus Ó Murchadha.
Liam Mac Sioghaird.
Tomás Ó Domhnaill.
Earnán de Blaghd.
Uinséann de Paquito.

Amendment declared lost.

Mr. DUGGAN: I beg to move Amendment 22: "In Section 16, page 9, line 22, to delete the word 'captain' and to substitute therefor the word 'commandant.'"

Amendment agreed to.

Mr. JOHNSON: I beg to move Amendment 23: "In Section 16, page 9, line 23, to insert after the word 'force' the words 'other than Civic Guard and the Dublin Metropolitan Police.'" The object of the amendment is to save these two Forces from the odium of being political bodies.

Mr. O'HIGGINS: If Deputies will refer to Section 1, sub-section (1) (a), they will find that the Bill provides that it "shall be lawful for an Executive Minister to cause the arrest, and, subject to the provisions of this Act, to order the detention in custody in any place in Saorstát Éireann of any person in respect of whom such Minister shall have received a report from a responsible Officer that there is

reasonable ground for suspecting such person of being or having been engaged, or concerned in the commission of any of the offences mentioned in Part I. of the Schedule to this Act."

Turning to Part I. of the Schedule we find that the offences set out are "armed revolt against the Government of Saorstát Éireann; threatening, coercing, assaulting or intending to threaten, coerce or assault any person in furtherance of any such revolt; destroying, damaging or removing, or attempting to destroy, damage or remove any property in furtherance of any such revolt." I cannot agree that the crimes set out in Part I. of the Schedule are outside the scope or province of members of the Civic Guard or Dublin Metropolitan Police, and turning again to Section 2, sub-section (1), the Bill states that "it shall be lawful for a responsible officer to arrest and detain in custody for any period not exceeding one week any person found committing or intending to commit, or

whom such officer suspects of having committed any of the offences mentioned in Part II. of the Schedule to this Act." In Part II. of the Schedule twelve offences are set out, all of a rather serious nature, both intrinsically and in their effects on the peace and order and general well-being of the State. I cannot agree that

the offences mentioned in Part II. of the Schedule are outside the scope or province of members of the Civic Guard and Dublin Metropolitan Police, and for these reasons I do not propose to accept the Deputy's amendment.

Amendment put.

The Dáil divided: Yá, 9; Níl, 29.

TÁ.

Tomás Mac Eoin.
Seoirse Ghabháin Uí Dhubhthaigh.
Liam Ó Briain.
Tomás Ó Conaill.
Aodh Ó Cúlacháin.

Seán Ó Laidhin.
Cathal Ó Seanáin.
Domhnall Ó Muirghessa.
Domhnall Ó Ceallacháin.

Níl.

Liam T. Mac Cosgair.
Gearóid Ó Súilleabháin.
Uaitéar Mac Cumhaill.
Micheál Ó hAonghusa.
Seamus Breathnach.
Peadar Mac a' Bháird.
Darghal Fíges.
Micheál de Duram.
Seán Mac Garaidh.
Pilib Mac Cosgair.
Domhnall Mac Cárthaigh.
Sir Seamus Craig.
Liam Thrift.
Liam Mag Aonghusa.
Pádraic Ó Máille.

Seoirse Mac Niocaill.
Fionán Ó Loingsigh.
Cristóir Ó Broin.
Caoimhghin Ó hUigín.
Seamus Ó Dóláin.
Próinsias Mag Aonghusa.
Eamon Ó Dugáin.
Peadar Ó hAodha.
Seamus Ó Murchadha.
Liam Mac Sioghaid.
Earnán de Blaghd.
Uinseann de Faoite.
Alasdair Mac Caba.
Piaras Béaslaí.

Amendment declared lost.

Mr. DUGGAN: I beg to move the following amendment, which provides a definition of the expression "military forces."

In Section 16, page 9, line 34, to add at the end of the section the following words "the expression 'military authorities' includes the Army Council for the time being of the National Army, General Officers commanding districts, and other officers having executive command of troops."

Professor THRIFT: I had a conversation with Deputy FitzGibbon about this amendment, and he asked me to move it in his absence. It is merely a verbal change, which, I think, will commend itself to Deputy Duggan. It is to make the wording of the definition "military authorities" coincide with the wording of other definitions in the same Section. The amendment moved by Deputy Duggan indicates that "military authorities" includes so and so. The amendment I have to move in the name of Deputy FitzGibbon is to substitute the word "means" for "includes" and

insert the word "or" between "Army, General," and the word "or" for "and" after "districts." The changes are entirely verbal, but they have the effect of giving a definition which is in line with other definitions. As the word "includes" stands at present, it is not an exclusive term. This alteration I suggest would make the definition quite definite;

Mr. O'HIGGINS: In that connection I think that Deputy Duggan ought to accept the slight verbal change recommended by Deputy Thrift, and therefore I think it would be an improvement to the definition to have it read as follows:—"The expression 'Military Authorities' means the Army Council for the time being of the National Army, or a General Officer Commanding a District, or any other officer not being below the rank of a Commandant, having Executive Command of troops." We have just dealt with an amendment which defines that the "responsible officer" mentioned throughout the Bill shall be an officer of not less than Commandant's rank. The question might arise hereafter as to what

[Mr. O'Higgins.] officers, and of what rank, might be said to have executive command of troops. Possibly a Lieutenant might be correctly said to have executive command of a certain number of troops, and I think, in defining "Military Authorities," we ought to keep the rank as high as "responsible officers," mentioned in other portions of the Bill. I would, therefore, ask the leave of the Dáil to substitute for Amendment 24 as it stands the following amendment:—"The expression 'Military Authorities' means the Army Council for the time being of the National Army, or a General Officer Commanding a District, or any other officer not being below the rank of Commandant having executive command of troops."

ACTING CHAIRMAN (Mr. FitzGibbon): Does Deputy Duggan accept the alteration of the Minister for Home Affairs?

Mr. DUGGAN: Yes.

Amendment, as amended, agreed to.

Amendment by **Messrs. O'CONNELL and O'SHANNON:** "In Section 17 (2) to insert after the word 'thereof,' line 38, the words 'or until such earlier time as Dáil Eireann may by resolution declare that public order and safety can be adequately maintained by the exercise of the powers vested in the civil authorities prior to the passing of this Act.'"

Mr. O'CONNELL: I move this amendment.

Mr. O'HIGGINS: I contest this amendment on the grounds that it is not necessary. It is superfluous to the Bill. Section 17, Sub-section (2), provides that this Act shall continue in force for six months after the passing thereof, and

shall then expire. If before six months, the lifetime of this Bill, the Dáil is of opinion that the situation is such that the Executive no longer require the powers conferred by the Bill, and if the Executive persists in its view that those powers are required, and persists in exercising those powers, then the Dáil, to which the Executive is responsible, can defeat the Executive, and can in that way press its view that such powers should not be exercised. But it is wrong to embody in your legislation a provision of this kind—that, in fact, the exercise of the powers conferred by the Legislature may be annulled, not by an amending or repealing Bill, but by a resolution of the Dáil. Every Parliament has in its power the changing of the Executive and the removal of its mandate. It is a simple thing to formulate a resolution of no confidence on this issue, or on any other issue, and to cite in support of it, not merely abuse or misuse of power arising from a particular Bill, but to indict the Executive generally for all or any of its misdeeds. It would be a bad principle to start inserting in legislation a provision that that legislation can be held up or suspended by a resolution of the Dáil. The Executive considers that these powers which are asked for in this Bill may be necessary for six months. If they are not necessary for six months, then the Executive, if it acts in a responsible spirit, will not exercise them; and if it exercises them contrary to the judgment of the Dáil, the Dáil will, no doubt, find means of expressing and enforcing its view; but I do not think that we ought to insert such an amendment as the Deputy suggests, and I do not propose to accept it.

Amendment put.

The Dáil divided: Tá, 8; Níl, 32.

Tá.

Riobárd Ó Deaghaidh.
Tomás Mac Eoin.
Tomás Ó Conaill.
Aodh Ó Cúlacháin.

Seán Ó Laidhin.
Cathal Ó Seanáin.
Domhnall Ó Muirgheasa.
Domhnall Ó Ceallacháin.

NIL.

Liam T. Mac Cosgair.
 Gearóid Ó Súilleabháin.
 Séamus Breathnach.
 Peadar Mac a' Bháird.
 Micheál de Duram.
 Seán Mac Garaidh.
 Pilib Mac Cosgair.
 Domhnall Mac Cárthaigh.
 Sir Séamus Craig.
 Gearóid Mac Giobúin.
 Liam Thrift.
 Liam Mag Aonghusa.
 Pádraic Ó Máille.
 Seoirse Mac Niocaill.
 Fionán Ó Loingsigh.
 Críostóir Ó Broin.

Caoimhghin Ó hUigín.
 Séamus Ó Dólaín.
 Aindriú Ó Laimhín.
 Próinsias Mag Aonghusa.
 Eamon Ó Dúgáin.
 Peadar Ó hAodha.
 Séamus Ó Murchadha.
 Seosamh Mac Giolla Bhrighde.
 Liam Mac Sioghaird.
 Tomás Ó Domhnaill.
 Uinseann de Fhoite.
 Seán Ó Duinnín.
 Uaitéar Mac Cumhaill.
 Seán Ó Ruanaidh.
 Eoin Mac Néill.
 Piaras Béaslai.

Amendment declared lost.

An Ceann Comhairle resumed the Chair at this stage.

Mr. O'CALLAGHAN: On behalf of Deputy Corish, I formally move amendment 26: "In the Schedule, Part II., paragraph 2, page 10, to insert before the word 'having' the word 'knowingly.'"

Mr. O'HIGGINS: One of the things that it is almost impossible to prove is knowledge—the condition of a man's mind. It is very hard to produce evidence regarding that. Always in the case of stolen property a person is charged with being in possession of it, and it is for him to establish what case he can to the effect that he was not aware that he was in possession of that property, and the Court will take all the circumstances into consideration, and decide whether it is at all likely that the property concerned could be in the place where it was discovered unknown to the owner of the premises or the person charged with the offence of having that property in his possession. But it would simply be stultifying ourselves to put on the prosecution the onus of actual proof that the person knew that the property was there. If a revolver is found in a man's trunk, he is charged with being in possession of the revolver without lawful authority. If

he is able to satisfy the Court that he was not aware that the weapon was in his trunk or in his possession, then the Court, no doubt, will consider that, and consider the case which he is able to put up towards that. I may be told I am taking an extreme case—the case of a revolver in a person's trunk. I may be reminded that arms are dumped throughout the country, and that necessarily and naturally they are dumped upon someone's premises, and that it could well happen that they were so dumped unknown to the owner of the premises. Well, each case will have to be taken on its merits, and the Court will have to decide whether, in all the circumstances, it was at all likely that the dumped arms or ammunition or explosive of some kind could be put in a man's yard, or about his premises, without any guilty knowledge whatsoever upon his part. But I submit that any Executive authority would be stultifying itself by taking on the onus of proving guilty knowledge. It is for the man in whose possession, or on whose premises, prohibited articles of this kind are found, to put his case to the Court that they were there without any knowledge or connivance or complicity whatever on his part.

Amendment put.

The Dáil divided: Tá, 9; Nil, 32.

Tá.

Riobárd Ó Deaghaidh.
 Tomás Mac Eoin.
 Liam Ó Briain.
 Tomás Ó Conaill.
 Aodh Ó Cúlacháin.

Seán Ó Laidhín.
 Cathal Ó Seánáin.
 Domhnall Ó Muirghéasa.
 Domhnall Ó Ceallacháin.

Nil.

Liam T. Mac Cosgair
 Micheál Ó hAonghusa.
 Séamus Breathnach.
 Peadar Mac a' Bháird.
 Micheál de Luram.
 Seán Mac Garaidh.
 Pilib Mac Cosgair.
 Domhnall Mac Cárthaigh.
 Sir Séamus Craig.
 Gearóid Mac Giobúin.
 Liam Thrift.
 Liam Mag Aonghusa.
 Pádraic Ó Máille.
 Scoirse Mac Niocaill.
 Fionán Ó Loingsigh.
 Cristóir Ó Broin.

Caoimhghin Ó hUigín.
 Séamus Ó Dólaín.
 Aindriú Ó Lainhin.
 Próinsias Mag Aonghusa.
 Eamon Ó Dúgáin.
 Peadar Ó hAodha.
 Séamus Ó Murchadha.
 Soosamh Mac Giolla Bhrighde.
 Liam Mac Sioghaire.
 Tomás Ó Domhnaill.
 Earnán de Blaghd.
 Uinsean de Faoite.
 Seán Ó Duinnín.
 Seán Ó Ruanaidh.
 Eoin Mac Néill.
 Piaras Béaslaí.

Amendment declared lost.

Mr. O'CONNELL: I beg to move an amendment in the Schedule, Part II., page 10, paragraph 6, to delete the words "offensive weapon or instrument," and to substitute therefor the words "lethal firearm."

Mr. O'HIGGINS: The object of the amendment is to change the definition of robbery under arms. In the Schedule robbery under arms is defined as robbery, or attempted robbery, with arms or any offensive weapon or instrument. The Deputy wants to remove the words "offensive weapon or instrument," and to substitute therefor the words "lethal firearm." The gist of the offence of robbery under arms is the physical fear that is brought to bear upon the mind of the victim it is proposed to rob, and it is not material to the offence that the fear should be fear of having a piece of lead propelled through his anatomy by means of an explosive. The offence lies in the threat to do physical violence in default of money or property being handed over. We cannot discriminate between the use of a .32 automatic and the use of a sand-bag or an iron bar, and the offence does not lie in the use of a particular weapon or a particular instrument, but in the fact that physical fear is brought to bear upon a man to induce him to hand over his goods, and that he is offered the alternative to handing over his goods of undergoing serious physical violence, with probably the handing over of his goods in any case as a follow up.

As I say, there was some consideration given to the question as to whether robbery with violence of this kind, or with a threat of grave violence, ought not to be made a capital offence in all the existing circumstances in the country and in view

of the prevalence of the offence. It is almost certain that the man who goes out to rob in this way, whether he has a revolver, an iron bar, or a sandbag, is prepared to kill, if necessary, and the partition between that particular crime and the crime of murder is of the slightest. However, it was felt that in normal, or even semi-normal, times the public conscience would be against the taking of life except in cases where life had been taken, and we have substituted the other penalty—drastic, no doubt, but not fatal or final. I cannot agree to accept the Deputy's amendment. It would simply be to put a premium on the use of one particular weapon rather than on another, and to say that the man who robbed with a gun will suffer the penalties of this Bill, but that the man who robs with a crowbar, a pitchfork, a scythe, a hatchet, or a sandbag, will get off better. It is the crime of robbery—the crime of robbing under threat of a grave physical injury—that is aimed at in this Bill, and we cannot agree to cover by this provision only the crime of robbery with the use of firearms.

Amendment put and negatived.

Mr. O'BRIEN: I beg to move Amendment 28, in the Schedule, Part II., page 10, to delete paragraph 10.

Mr. O'HIGGINS: The purport of the amendment is to delete that paragraph of Part II. of the Schedule which prohibits, under the penalties set out in Section 5, illicit distillation, or having possession or control of any illicitly distilled spirits, or any illicit still, or any articles or materials for illicit distillation. I regret I cannot meet the Deputy in this matter. The poteen traffic has become a serious

evil in many counties. I pointed out some time ago that every brutal and unnatural crime practically that has been committed in the country has been committed within the zone of the illicit still, and that this offence has spread to people of all ages and of both sexes. I was speaking some time ago to a young Civic Guard who had been on duty in a certain area in Sligo. He told me that he had seen children reeling drunk along the roads coming home from school, drunk from poteen. I know that over Christmas time and the New Year there was a large tract of country in the West of Ireland where it would have been difficult to find for a week a sober man or woman. This crime menaces order, progress, and decency in the life of the country. If the country is to live and flourish, that particular traffic will have to be stamped out ruthlessly. It is a fact beyond all question—a scientific fact—that its results will be found in succeeding generations, that the children born of men and women addicted to the use of poteen will be deficient. It is not an amiable eccentricity. It is a degrading, demoralising vice that, in the interest of the State, present and future, must be grappled with and must be stamped out at all costs.

Amendment put and declared lost.

Mr. O'BRIEN: On behalf of Deputy O Cúlacháin, I beg to move: "In the Schedule, Part II., page 10, to delete paragraph 2." (Amendment 29.)

Mr. O'HIGGINS: This amendment proposes to delete from Part II. of the Schedule the offence of selling, or offering, exposing, or having for sale any illicitly distilled spirits. The considerations which urge me to oppose this amendment are, roughly, the same as the considerations which I have urged against the previous amendment.

Amendment put and declared lost.

AN CEANN COMHAIRLE: The motion is: "That the Bill, as amended, be received for final consideration."

Mr. GAVAN DUFFY: Before the motion is put I desire to call attention to two or three matters which were not dealt with, or dealt with at any length, on the last occasion. The Minister on the previous Reading very frankly agreed to put in words which would specifically show that internment could not continue

beyond the period of the Bill. He has made an effort to carry out that undertaking in Section 2 by putting in the words "subject to the provisions of this Act," as governing the power to order internment. Those words were already in the Bill in Section 1. I take leave to differ from the Minister's advisers if they think that the phrase, "Subject to the provisions of this Act," will necessarily and certainly be interpreted by the Courts as meaning that internment cannot continue beyond the period of this Bill. As this Bill has still to go before the Seanad, I think it is worth while drawing attention to the fact—the Minister will have plenty of time to consider the point—so that some other words stating more specifically what is meant should be put in.

I desire to draw special attention to the same point in Section 4 Sub-section (4) (b), in which the Minister has forgotten that it was necessary to put in words restricting the power of internment to the period of this Bill. That section enables the Minister to intern a person who has appealed during such period as he considers that the public safety would be endangered by such person being set at liberty. I think everyone will see at once that it is necessary there to put in some qualifying words. I do very strongly urge that better qualifying words should be adopted than the phrase, "Subject to the provisions of this Act." I should like the same phrase used in the two places—where this matter occurs already and in Section 4—some phrase such as "During the continuance of this Act," or "so long as this Act remains in force"—something that will be absolutely clear. I think the Dáil will see at once that to give the Minister power to intern an appellant during such period as he thinks necessary enables the Minister to order, let us say, internment for life, internment for ten years, internment for two years. It is during the period that the Minister considers necessary. I gathered from the Minister on the last occasion that that was not at all his intention, and I ask for an undertaking that that matter be put right by putting in words which will make the intention clear—namely, that this power of internment, in every case where it exists, stops with the Bill when the Bill ceases to have effect.

I may point out, in connection with the words "subject to the provisions of this

[Mr. Gavan Duffy.]
 Act," that that phrase would be unfortunate and meaningless if put in in Section 4, as, if you were to use that phrase where you expressly state that the Minister can intern for as long as he thinks necessary, obviously there would be the greatest danger and likelihood that the interpretation of the clause would be that "subject to the provisions of this Act" merely means obeying the forms prescribed by this Act; that inasmuch as the Act gives the Minister power to fix the period, the period is not limited by the length of the Act any more than a period of penal servitude or imprisonment in another section.

I also wish to refer to Section 3, Sub-section (2), and to protest against this Dáil passing a law whereby persons are to serve their sentences either unexpired or undischarged on the assumption that those sentences are properly awarded when we have no information whatever about those sentences. I think that this Dáil, to do itself justice, before it purports to sanction sentences that have been given, should have before it a schedule of the cases to which the section will apply. We have no such thing. We do not know how many people were sentenced; who were sentenced; what they were sentenced for. In fact, we know nothing about this matter on which we are purporting to legislate. We are saying that men who have been sentenced by Military Courts must carry out their sentences. We should not say that without knowing exactly what we mean. None of us knows what that means.

Incidentally, it seems to me that that clause amounts to an indirect Act of Indemnity to the military who took part in the functioning of those tribunals. It is common knowledge that a number of Military Courts have sat in the City of Dublin and the County of Dublin since Christmas. It is also common knowledge that the Constitution provides that special Courts shall not sit even in time of rebellion in places where the ordinary Courts are capable of sitting. It is, therefore, to put it at the very lowest, extremely arguable that a good many of these Courts have been sitting in an illegal way, and that their sentences have been illegal, because they were sitting here in Dublin when the ordinary Courts were sitting. If this Dáil ratifies sentences about which it knows nothing,

passed in secret, at a moment when we know that under the Constitution some of those Courts ought not to have been held because there were civil Courts sitting in the same place, it is doing a thing which cannot be defended, and that particular section is one against which I must very strongly protest.

One word as to the Preamble. The first part of the Preamble deals with the crimes committed by the Irregulars. I raise this matter, not by way of recrimination, because I could say a great deal more if I wanted to raise it by way of recrimination. But I am anxious to see the time when recriminations will cease. I do think that there is too much of this "killing Kruger with your mouth." The Ministry cannot stand up in a white robe of innocence, as if no crimes have been committed on their side. It is not a question of the truth or untruth of what is said here. I venture to think that a short time hence the Ministers themselves will regret that they were parties to putting on the Statute Book statements which make reconciliation more difficult. The Bill would be every bit as effective if all that first part of the Preamble were left out. I do not think these statements, however true, can give any particular satisfaction to anybody, and they are yet another block in the way of coming to terms, coming to agreement, or making some kind of reconciliation such as must be made sooner or later. Is there any particular object in it, more especially when we realise that many of these allegations can be made, not on one side only, but on the other also?

The President is reported in the papers as having made a speech yesterday, the tone of which we all should welcome. He said he wanted to forget and forgive, thus evincing a spirit which we all like to see from the head of the Executive—a spirit breathing reconciliation. The bringing in of a Bill like this is a little difficult to reconcile with that spirit, but the introduction to the Bill by re-hashing all these charges that we see here is surely not consonant with that spirit. I ask Ministers to think it over and see whether they will not themselves realise that it is better the Statute Book at least should be free from these particular charges which are set down here at considerable length in black and white.

Lastly, it is, perhaps, too much to

hope that we could get a direct statement on the Constitutional question, as to which Ministers have been a little shy. I have tried to ascertain whether or not it is the Ministerial view that this Bill is an amendment of the existing Constitution. Not one word has been dropped from anyone on the Ministerial side suggesting that there is any intention to amend the Constitution. The Ministers have not said, on the contrary, that there is no such intention. They have left the matter open for anyone to put his own interpretation on. I take the view, and I think many others will take it, that this Bill is unconstitutional in many respects. I think the Dáil, when it is asked to pass a Bill of this kind, is entitled to know exactly in what light the matter is put before it by the Minister. Are you or are you not purporting to ask us to change the Constitution? I do not want to say any more about the other matters, which have been dealt with fully. I see no reason to repeat the objections that I made before. The Dáil knows that I feel strongly on this matter. I do ask that attention be given to these matters to which so little attention has been given, and also to the other points to which exception was taken on the previous Reading.

The PRESIDENT: I would like Deputy Duffy to know that we have no intention in this Bill, or in any other legislative proposal we have brought forward, to amend the Constitution. I might also direct the Deputy's attention, as he has thought fit to give us a little lecture, to a speech which he delivered a short time ago, in which he made some joy out of a funeral. I never heard that done before. Perhaps the Deputy was a little excited, or perhaps his associations before it were a little bit exhilarating. But it was not a happy phrase. I never saw a funeral I enjoyed.

In any statements I have made, either here or outside, I do not think I have departed from the one attitude—the desire to see an end of this bitterness. I do not think it is not possible to see an end to this business and at the same time have the truth. Whatever there is in the Preamble to that Bill is, unfortunately, the truth. I regret it is. Deputy Gavan Duffy knows as well as I do that last year for six months we acted in accordance with the recommendation he is giving us now—exactly the same sort of

toleration and the same sort of magnanimity. We know how it was treated. We know that in the whole history of our country there never was a more deplorable period than there was from January to July. We had then to take strong action. I have yet to hear of any war which has been carried on free from excesses by one side or the other or by both sides. I have dealt before with the manner in which our troops dealt with the war. Anybody who examines their conduct will say that they acted with remarkable forbearance. When the occasion did arise necessitating action on our part for breaches of order or discipline we instituted inquiries at once and took necessary action. The same cannot be said of the other people when they were faced with excesses on their side. There was no repudiation, no apology, and no expression of regret. That is not the spirit in which we can come to agreement. They are fanning themselves eternally and trying to fan the country into the belief that they are the greatly wronged people—I might say the great unkind, because I am sure, from what I see of them, that there are very few who would be inclined to give them the chaste salute.

Motion: "That the Bill, as amended, be received for final consideration," put and agreed to.

FIFTH STAGE.

Mr. O'HIGGINS: I want to move that the Bill do now pass, and, in moving that, to draw attention briefly to some misconceptions that exist with regard to the Bill. There has been in connection with this Bill just the same kind of loose, ill-informed criticism that there was, say, about the Rent Restrictions Bill. It has been represented to me that it is the intention under this Bill to turn around now, and apply the lash to people who burned property or robbed with arms within the last ten or twelve months, and who are now in our custody. Deputies here, I trust, understand that that is not the position, and the provision of the penalties under this Bill are not to be applied to any offences save offences committed after the passing of the Act—after the Bill becomes law. There is fair warning for every prospective robber and every prospective arsoner in the country with regard to

[Mr. O'Higgins.]

the penalty he may expect to meet if tried and found guilty before a jury of his fellow-countrymen. There is also at least a misunderstanding with regard to the question of holding prisoners. I pointed out again and again in this Dáil that to hold any prisoners for a single day after the Court decides that there is not in this country a state of war or armed revolt you must get legal power to hold the prisoners, and proceed then to use with judgment that discretion which the Executive Council which retains the confidence of the representatives of the people may be presumed to have. The Bill was not conceived in any spirit of vindictiveness, or in any desire to do anything but to secure the safety and well-being of the people to whom we are responsible. I move that it do now pass.

Mr. GAVAN DUFFY: I desire to ask that a verbal amendment be inserted in Section 4, Sub-section (4) (b), to add the words "so long as this Act continues in force" after the word "custody" in line 4. In other words, to make it plain that that sub-section, like Sections 1 and 2, is not intended to authorise internment beyond the period of this Bill.

Mr. O'HIGGINS: It might astound and even alarm the Deputy, but I am not accepting the amendment. Neither I nor any of my officials, nor any of the legal advisers of the Government, take the view that the power of detention which this Bill proposes to confer could be exercised for a single day after the expiry of the Act. Neither I nor any one of my advisers take the view that in nine months' time an Executive could plead, in defence of holding in its custody a person uncharged and untried, an Act which had expired three months before. I do

not propose to cater for the mentality which puts up that amendment. It is ridiculous, and to accept it would bring the Executive, which is standing over this Bill, into ridicule. The power of detaining persons without trial arises from the Bill and dies with the Bill, and no executive in the world, not even an Executive numbering the Deputy amongst its numbers, would stand over the holding of a person without trial in nine months time, and say they derive that power from a Bill which had expired three months before.

Mr. GAVAN DUFFY: The Minister says he has consulted his legal advisers on the general question as to whether internment could continue beyond the Act. I ask him to consult them with respect to this particular section, in which he has power to detain persons in custody during such period as an Executive Minister considers necessary.

Mr. O'HIGGINS: During such period within the lifetime of the Bill.

Mr. GAVAN DUFFY: That is what I asked to have made clear, and the Minister will not agree. I have very distinguished legal opinion to the effect that such a clause is necessary. I regret that any amendment coming from this quarter is always met in the same impossible spirit by the Minister for Home Affairs.

Amendment put and negatived.

Motion: "That the Bill do now pass." put and agreed to.

AN CEANN COMHAIRLE: The Bill will be accordingly sent to the Seanad.

The Dáil adjourned at 8.40 p.m. until 3 o'clock on Tuesday, 24th July.

DÁIL EIREANN.

DE MAIRT, 24^{ADH} IUL, 1923.

(Tuesday, 24th July, 1923.)

Cromadh ar obair an lae ar 3.10 p.m.
Bhí an Ceann Comhairle, Mícheál O
hAodha, sa Chathaoir

CEISTEANNA—QUESTIONS.

ORAL ANSWERS.

THE SHOOTING OF CIVILIANS IN RAILWAY STREET.

AILFRID O'BROIN asked the Minister for Finance whether he is aware that five persons, viz.:—John Ward (40), labourer, 30 Railway Street—gunshot wound in right leg; Thomas Flanagan (38), labourer, 33 Railway Street—bullet wound through right thigh; Patrick Farrelly (34), labourer, 86 Railway Street—superficial wounds in right leg; Patrick Hickey (32), labourer, 38 Lower Gloucester Street—gunshot wounds in right thigh; Minnie M'Coy, a schoolgirl of 14, of 26 Waterford Street—superficial gunshot wounds in the abdomen, were wounded by National Soldiers firing at an escaping prisoner in Railway Street on 19th May last; whether compensation has been refused to the sufferers, and if he will take steps to have their cases considered and reasonable compensation paid.

MINISTER for DEFENCE (General Mulcahy) replying for Minister for Finance: I have been asked by the Minister for Finance to answer this question.

The only person in respect of whom an application for compensation has been received is Patrick Hickey. The circumstances of the shooting as a result of which he was wounded and the question of compensation are still under consideration.

TEMPORARY CIVIL SERVANTS.

LIAM de ROISTE asked the Minister for Finance, in view of the forthcoming Civil Service Commission Bill, what consideration, if any, is to be given men at present holding temporary clerical appointments, who repeatedly volun-

teered for service with the Army, but whose applications were turned down on the ground that their enlistment would lead to a dislocation of the public services, and who were requested to remain where their services were most needed; whether such men will be granted facilities in examination similar to those on active service, or will they be absorbed on the establishment of their respective departments.

The PRESIDENT (Minister for Finance): The forthcoming examination for posts in the Customs and Excise Service is limited to officers and men of the Army, and I am not prepared to remove that limitation.

The question of the preference if any to be given to temporary clerical employees of Government Departments in future Civil Service Examinations is one for the consideration of the Civil Service Commissioners under Clause 4 of the Civil Service Regulation Bill.

IRISH SLATES.

LIAM de ROISTE asked the Minister for Local Government whether he is aware that foreign slates are being used on houses under Housing Schemes throughout the country; that there are large stocks of Irish slates available, that the workers in Irish slate quarries are working only part time, and that while Irish slates are being so little used in Ireland they are being exported to France.

MINISTER for LOCAL GOVERNMENT (Mr. E. Blythe): Local authorities have been obliged to use imported slates owing to the inability of Irish Slate Companies to supply in sufficient quantities and sizes within reasonable periods. The use of imported slates is not approved of, in any case, until it is definitely shown that suitable slates from Irish quarries are not available or likely to be forthcoming as and when required.

There is no information in the Department on the matters referred to in the latter part of the question.

GOODS CLASSIFICATION ON RAILWAYS.

DOMHNALL O CEALLACHAIN asked the Minister for Industry and Commerce whether he is aware that the Goods Classification now in use on railways throughout the Saorstát results

[Domhnall O Ceallachain.]

in a number of cases in goods being classed far and away above their value, as, for instance, in the case of common clay pipes, charged at the same value as more valuable ware; and whether he will have the proper value placed on these goods—viz., 5 per cent. above Class C.

The POSTMASTER-GENERAL (Mr. J. J. Walsh) replying for **Minister for Industry and Commerce**: The value of the goods is not the only factor determining their classification for the purpose of railway rates. Other factors such as bulk and liability to damage in transit are taken into account.

The rates on clay pipes are a matter which has already been taken up with the railway companies, who are not prepared to reduce the present classification but will consider applications for the grant of special rates at the places between which the traffic actually passes. I have no present power to compel reductions in the classification of specific articles, but the whole question of the future arrangement of railway rates will arise on the re-organisation of the railways.

SEIZURE OF CATTLE.

TOMAS O CONAILL asked the **Minister for Home Affairs** for a return, showing (a) the number of instances since December 6th, 1922, in which cattle were seized by Military (other than by way of execution of decrees), arranged according to the Counties in which the seizures were made. (b) The total number of cattle so seized. (c) The total proceeds of the sale of such cattle. (d) How the proceeds of such sales have been disposed of.

MINISTER for HOME AFFAIRS (Mr. K. O'Higgins): (a) The number of instances in which stocks were seized by Military (other than by way of execution of decrees) since December 6th, 1922, is 76.

The number in each county is as follows:—

Donegal	1	Sligo	4
Carlow	1	Leitrim	3
Kilkenny	2	Roscommon	3
Offaly	2	Cork	7
Westmeath	7	Kerry	9
Longford	1	Clare	13
Galway	4	Limerick	2
Mayo	9	Tipperary	8

Total 76.

In 10 instances stock were released to their owners on payment of fines.

(b) The number of stock so seized is:—

Cattle	866
Sheep	421
Horses	132
Miscellaneous	121
Total	1,540.

(c) The total net proceeds of sale and fines received up to the present amount to £5,815 7s. 5d.

(d) The money is being retained pending arrangements for its allocation.

Mr. JOHNSON: Will the Minister say whether in the sale or disposal of this stock any effort is made to obtain the market value?

Mr. O'HIGGINS: The stock are sold by public auction.

Mr. JOHNSON: And they average £4 a head.

Mr. O'HIGGINS: The Deputy, I think, is ignoring that portion of the answer which states that in ten instances stock were released to their owners on payment of fines.

Mr. JOHNSON: Will the Minister say how many stock were sold in order to realise the sum of £5,815?

Mr. O'HIGGINS: The £5,815 is the total net proceeds of the sale and fines received up to the present. Deductions for transit payments, etc., have been made from that amount.

Mr. JOHNSON: Can the Minister say how many head of stock that amount covers?

Mr. GOREY: Cattle?

Mr. JOHNSON: Stock of different kinds.

Mr. O'HIGGINS: It covers the sale-price and fines of all stock that have been handled in this way. Take the ten instances where stock were released to their owners on payment of fines, I do not know what number of stock would be included in these particular instances.

Mr. JOHNSON: It is rather important that we should know that.

AN CEANN COMHAIRLE: A question could be put down on that matter.

Mr. O'HIGGINS: If the Deputy puts a question on that subject it will be answered in the ordinary course.

THE DOUGLAS COMMISSION.

AILFRID O BROIN asked the Postmaster-General when the Douglas Commission will resume its sittings; if he is aware that the Chairman promised to consider the claims of the Engineering Union.

The POSTMASTER-GENERAL (Mr. J. J. Walsh): As regards the first part of the question I have received no official notification from the Postal Commission as to when it will resume its sittings.

As to the second part, I have no information concerning the promise referred to.

Mr. DARRELL FIGGIS: Arising out of the first part of that answer, can one fairly assume from it that the Commission is entitled and empowered to resume its sittings as and when it pleases?

Mr. WALSH: That is correct.

A KELLS PRISONER.

CATHAL O SEANAIN asked the Minister for Defence to state the result of the further consideration, promised in an answer on July 12th, of the case of Michael McInerney, Carnaross, Kells; to ask whether the Minister is aware of, and has considered the grounds for his release set forth in a communication from the priests and people of the district to the Minister for Home Affairs; and whether he has considered the allegation of mistaken identity made in this case.

General MULCAHY: Michael McInerney was released on the 19th inst.

A STOLEN BICYCLE.

DARGHAL FIGES asked the Minister for Defence whether he is aware that a bicycle stolen from Edward Hill, of 21 Cooper Gardens, Palmerston Park, on the 25th June, 1922, and retaken by National troops in Blessington some time in May of this year, as admitted and identified by Army officers, whom Mr. Hill has seen in the matter, has not been returned to him in spite of his many requests? To ask that steps be taken that Mr. Hill will have his property restored to him without further delay.

General MULCAHY: Mr. Hill's bicycle is at present in Naas Barracks, and

arrangements are being made for its immediate restoration to him.

WRITTEN ANSWERS.

AN IRISHTOWN FEMALE PRISONER.

SEoirse GHABHAIN UI DHUBH-THAIGH asked the Minister for Defence if he will inquire into the case of Elizabeth Keane, a young girl residing at Stella Gardens, Irishtown, who was arrested on 23rd March last, and is now interned at the North Dublin Union, and if he will state whether he can now see his way to directing her release.

General MULCAHY: Arrangements are being made for Miss Keane's release.

QUESTION ON ADJOURNMENT.

Mr. DOYLE: I beg to give notice that on the adjournment I will raise the question of which I gave notice last week.

AN CEANN COMHAIRLE: That is in connection with votes for untried prisoners at the next election?

Mr. DOYLE: That is the subject.

CARRICK-ON-SHANNON ARREST.

TOMAS O CONAILL asked the Minister for Defence whether Hugh Flynn, National Teacher, of Loughross National School, Carrick-on-Shannon, has been arrested by National Troops; can he state the grounds of his arrest, and where he is now detained; whether any charges have been, or will be, formulated against him, and if not, is it his intention to release him.

General MULCAHY: There appears to be no record of the arrest of Mr. Hugh Flynn.

BLACKWATER FLOODING.

SEAN O DUINNIN asked the Minister for Agriculture whether as there are no funds available at present to repair broken banks of the Blackwater near Mallow at Lombardstown; the owners of fields flooded, ruined or threatened will get reductions in their rent corresponding to the damage suffered by neglect of the river banks.

MINISTER for AGRICULTURE (Mr. P. Hogan): If the Deputy refers to the lands of Lombardstown situate in the Rural District of Mallow, which were

[Mr. Hogan.]

purchased by the occupying tenants under the Irish Land Act, 1903, subject to Land Purchase Annuities, there is no power to reduce such Annuities. If the Deputy refers to rents payable by unpurchased tenants to the owner of the lands the Government have no information on the subject.

ORDER OF ESTIMATES.

Mr. DARRELL FIGGIS: Before we proceed with the Orders of the Day may I ask in connection with Item number 4, if we could know in advance what Estimates are included under that head. I raised the question once or twice before and I do not want to be unduly pertinacious about it. It would be a matter of very great convenience if we could know in advance what Estimates are to be taken.

AN CEANN COMHAIRLE: Estimate No. 52, Intermediate Education, was not concluded. I do not know if it is the intention to take that first. Then, there is No. 53, Universities and Colleges; Nos. 56, 57 and 31 were postponed for the attendance of the Assistant Minister for Industry and Commerce. I do not know if the Assistant Minister will be present to-day.

Mr. DARRELL FIGGIS: It is more in regard to these incomplete Estimates dealing with Industry and Commerce that I ask the question. If I were to know that they would be taken to-day, or if not taken to-day on what day would they be taken, it would be a matter of convenience.

AN CEANN COMHAIRLE: You may hear from the Assistant Minister for Industry and Commerce before the Estimates are reached.

DEFENCE FORCES (TEMPORARY PROVISIONS) BILL, 1923—FIRST STAGE.

General MULCAHY: I desire to ask the leave of the Dáil for the introduction of the Defence Forces (Temporary Provisions) Bill, 1923. There are some words that could be said about the matter at this particular stage, without going into any discussion. I find myself at a time when it is possible for me to introduce this Bill, and at a time also when I am forced to realise that there will not be sufficient time before the dissolution of the present Dáil to give

sufficient consideration to a Bill of such length as this Defence Force (Temporary Provisions) Bill is, and a Bill of such importance. I am between that situation on the one side, and the situation on the other that it is absolutely necessary for us to have legalised at once the position of the Army. We have an Army at the present moment that only the necessity of the situation justifies or legalises us in having, and we are disciplining it under a code of regulations that only the necessity of the present situation warrants us in putting into force. Actual justification for the maintenance of the Army, as it existed up to the present, and as it exists now, has been the necessity. The most legal sanction for its maintenance and its action has been the state of war which is now coming to a close. With the approach of normal conditions, the accomplishment of the entire submission of the Army to the civil power has to be regulated in a proper manner, and all powers to establish, maintain, organise, discipline and control the Defence Forces must be sought from the Oireachtas in the ordinary way. I have, therefore, considered the matter to see how we had best meet the situation and I have framed the Bill to be a Temporary Bill, the intention being that the Oireachtas would be asked to pass the Bill as it stands, as a temporary measure, to run for, say, a period of twelve months, when actually the Bill or a Bill on these lines could be introduced either immediately that the new Dáil comes together, or preferably in my opinion, it might be left until the beginning of next year, when the present Bill, if it were passed by the Oireachtas, would have been in operation for a short time. You would have plenty of opportunity to see the likely effect of the Bill in different directions, and we could approach the discussion of the Army Bill in the beginning of next year with sufficient time at our disposal to give it the thorough discussion it is due it would get. From the point of view of the necessity of covering the existence of the Army at the present time and of disciplining the Army in a proper way, we are faced with the fact that if there were rather a condition of things in the country in a week or two, which cannot be held to be a state of war, we have practically no means of controlling the Army.

There are five articles in the Constitu-

tion which deal expressly with the matter. Article 45 provides that the Oireachtas has the exclusive right to regulate the raising and maintaining of armed forces, and that every such force shall be subject to its control. Article 6 provides that no person shall be deprived of his liberty save in accordance with law. Article 7 provides that no person shall be tried save in due course of law, and that extraordinary Courts shall not be established, save only such military tribunals as may be authorised by law for dealing with military offenders against military law. Article 71 provides that a member of the defence forces not on active service shall not be tried by any courtmartial for an offence cognisable by the Civil Courts unless such offence shall have been brought within the jurisdiction of courtmartial by any Code of Laws or Regulations for the enforcement of discipline which may hereafter be approved of by the Oireachtas. Article 72 provides that no person shall be tried on any criminal charge without a jury save *inter alia* in the case of charges against military law triable by courtmartial. The consequences of these articles of the Constitution mean that if we have not an Army Act on the lines outlined in the Bill now put before the Dáil, and if the state of war passes, officers would have no authority over their men; the men need not obey their orders unless they choose to; soldiers could desert at will without fear of consequences, and mutiny—the gravest of all military offences—would be something like a mere trade dispute or insubordination. Desertion would merely be a breach of contract. So the necessity for putting ourselves in a legal position from the point of view, particularly, of disciplining the Army will be apparent. The Bill in its present form will introduce transitory provisions which will legalise the position of the present national forces as defence forces within the meaning of the Bill, and it will give power to the Minister for Defence to make orders, rules and regulations to implement the Bill to the extent that is necessary at the present time.

The question will naturally arise in connection with a Bill, so long and detailed as this Bill is, that it would be more satisfactory, perhaps, to pass a short Bill giving general powers to the Ministry in the matter. But when you

come to consider that the general powers so given must of necessity be very wide, that they are likely to be the powers that are set out in the Bill, it is much more satisfactory, I think, for all concerned that we should set out the powers that we desire to have in a temporary Bill, so that in the meantime and before the permanent Bill is introduced there will be set out plainly in one particular document the powers that we would likely be asking or that a subsequent Government would likely be asking for controlling the establishment and the discipline of the Army. I ask for permission to introduce a Bill that will deal with the matter of organising and disciplining the Army, dealing with certain matters that determine and define the relationship between the army and the civil powers and the civilian population. I ask for permission to do it at a time when we know that the fullest and deserved consideration cannot be given to the Bill, but to deal with it as a temporary measure. I would be in a position, I think, to have the Bill circulated to-night, and I would like to ask if possible to have a Second Reading, say, on Thursday.

MINISTER for HOME AFFAIRS (Mr. O'Higgins): I beg to second.

CATHAL O'SHANNON: I do not rise to oppose the introduction of the Bill, as I am one of those who, right from the beginning of the sitting of this Dáil, urged that some such Bill should be brought in, as it was absolutely necessary, and because the Army required something that would regularise its standing and the actions taken by it. We recognise the necessity of the Bill, particularly from the disciplinary point of view. I think everybody in the Dáil will recognise its necessity from that point of view. But I do think it is rather a big job at the tail end of the session. There must have been great difficulties in the way, as the Minister says, it is a long and detailed Bill, and it must have taken a long time in drafting. At the same time I think the Minister ought to have seen to it that the Bill was brought in long ago, because it is not fair—even though it is only a temporary measure—that a long and detailed Bill, and one of such great importance, should be brought in now when we will not have the opportunities for examining it that would be desirable. The Minister has

[Cathal O'Shannon.]

given us some light on it, but I would plead for a little more. Some of us have observed recently that there has been a tendency in the new Army, that was not observable in the old Army, of sharp distinction between certain sections, or rather classes perhaps, in the Army. Now, that may be necessary for reasons of discipline. I do not know, but I would like if the Minister would tell us what is his own conception of the position the Army should occupy. In particular in the old Army, the old Volunteers and the old I.R.A., there was not the sharp distinction between the officer and private that there seems to be in the new Army. There are armies, the old caste armies, in which that distinction is very sharp. There are others in which it is not nearly so sharp. I do not know, and we will not know, until we have the Bill before us, what the relationship will be in the new army. I would like the Minister to give us his conception, and the conception of those who are advising him, as to the relationship that will exist between the people and the Army. The Bill, as he says, is a temporary one. So far so good. But even as a temporary Bill it will certainly be a head-line for any more permanent Army Bill of the future, and for that reason I would like to protest again against the lateness in the Session at which it is introduced. I suggest that the Minister might have been better advised if, instead of the long detailed Bill that he is bringing in, he brought in a shorter Bill—one on more general lines, and not for twelve months. The Bill could be of such a nature as would get over the legal difficulties in the way for the time being, or for a few months, until another Parliament would have an opportunity of considering in full detail the regulations for the regular Army.

Mr. DARRELL FIGGIS: I am not rising to oppose the introduction of this Bill, because it has been accepted, by myself at any rate, as a sound principle that Bills of this nature should receive their First Reading. I think, however, that one ought to point out that we now get the first revision of information which was given to the Dáil so late as only a week ago. A week ago, in answer to a question I put to him, the President stated that amongst the Bills it was intended to introduce was the Army Bill. We are now informed by the Minister

for Defence that the Army Bill, which we were promised a week ago, is to be postponed, and that a temporary measure is to take its place. I think we have a fairly good conception of the matters that would be covered by an Army Bill. In concluding this debate I think it might be for the service of the Dáil, if the Minister for Defence could state, a little more in detail the matters that it is intended to cover in this Bill. I am not sure if I remember him correctly, but I do not remember that in his opening remarks he stated how long it is proposed this temporary measure is to continue. I think he should state how long it is to continue, and I take this opportunity of saying that the shorter its term the better. I would like to know the heads with which it proposes to deal and wherein it would differ from the Army Bill, towards the drafting of which, I take it considerable progress must necessarily have been made.

General MULCAHY: My proposal would be that the temporary Bill would last for a period of twelve months, or until such time shorter than that period, as the Army Bill proper would be passed. I quite appreciate the necessity of making the Bill, passed under the circumstances under which I anticipate this Bill will be passed, last only for a short time. To make a Bill of this nature last for a short time means that you would have to hurry the introduction of your permanent Bill, and perhaps hurry the discussion of your permanent Bill. There is no reason why the permanent Bill should not be introduced immediately after the assembly of the new Parliament, except that you might like to wait for a short time, and see the actual effect in working of some of the provisions of the temporary Bill, and you might like to take a fairly long time to discuss the Bill itself.

The Bill before the Dáil now is actually the Army Bill as it was drafted for putting forward as a permanent Bill, with simply the introduction of a clause making it a temporary one, and the introduction of certain clauses dealing with the Reserve which it was intended originally to deal with in a separate Bill. It was anticipated it would be necessary for us in the meantime to have certain authority in connection with that matter. There is also the addition of a certain number of clauses dealing with transitory

provisions, making the Forces that we have at present a National Army; making them under this Bill as a Defence Force even though they have not been recruited and attested under conditions outlined in the Bill itself. So, for all practical purposes, you have placed before you the Bill which we had intended to bring forward and have discussed as the permanent Army Bill. I will refer briefly to the matters which, it is proposed, the Bill will deal with, because I anticipate the Bill will be in the hands of members to-morrow morning.

Part I. deals with establishment, organisation, administration, appointments and conditions of service, military education, service in time of war, the power of making statutory rules and regulations, and special powers in relation to the defence of the State, in relation to the maintenance of barracks, and other buildings.

Part II. deals with discipline. It sets out various offences against military law, the nature and degree of punishment which can be awarded, arrest of offenders, the investigation of charges. The summary disposition of charges in the case of minor offences, the constitution and jurisdiction of courts-martial, and the general principles governing their procedure, confirmation of their findings and sentences, and the execution of sentences. It deals with the pay of officers and soldiers and with the power to make deductions from, and forfeit, the same by way of punishment or to make good damage. It deals with prisons and detention barracks, for military offenders, the enlistment of recruits, appointments to corps and transfer to Reserve, billeting and impressment of carriages and offences and legal penalties in respect of the same with regard to officers and soldiers and to police and civilians.

Part III. deals with the establishment, control, training and discipline of the Reserve, the calling out of the Reserve on permanent service in case of National emergency or in aid locally of the Civil Power.

Part IV. deals with the transitory provisions necessary to cover the period (probably of a couple of months duration) between the passing of the Bill and the actual establishment of the forces thereunder. It legalises the National Forces as at present in existence. pro-

vides for the exercise of the Commander-in-Chief, and the administrative and executive powers by the Minister for Defence. It continues the liability of officers and soldiers to serve in accordance with existing appointments and agreements. It provides for the application of Part II. of the Bill (Discipline, Courts-Martial, etc.) to the National Forces as existing at present, and brings them into line with the provisions of the Constitution. It, finally, gives power to the Minister for Defence to make orders, rules and regulations necessary to implement this part of the Bill.

These are the matters which the different parts of the Bill will cover. On the general question of the relationship of officers to men and of the Army to the people, the Army in any country must be a kind of crystallisation of the people. Naturally they will be the people's servants and they will be the instrument of the Oireachtas. The relationship between officers and men of the Army in any country must be a kind of crystallisation of the common sense of the people, and I have no reason to think that the relationship between the officers and soldiers in the Irish Army in 1923 and 1924 will be materially different from the point of view of the matters that the Deputy probably has in his mind from the relationship that existed between the officers and men in the Irish Army in the years 1916, 1917, 1918, 1919, 1920, 1921 and 1922. Time only must show that. The nature of the people must essentially be the same in the latter years as in the previous years, and if that is so, my theory is the relationship between the officers of our Army and the soldiers cannot be changed in any way.

CATHAL O'SHANNON: Did I understand the Minister to say that he intended the Second Reading for Thursday next?

AN CEANN COMHAIRLE: When we dispose of this stage we can take up that question.

Question put and agreed to.

General MULCAHY: I intend to ask the leave of the Dáil to take the Second Reading on Thursday. I hope to be able to circulate the Bill to-night or at latest to-morrow.

Mr. JOHNSON: On this question of the period to elapse between the First

[Mr. Johnson.] and Second Reading, the Minister hopes to have the Bill in the hands of Deputies to-morrow morning. He told us it was a long, detailed Bill, dealing with very important questions. The Standing Order, it will be borne in mind, says that when a Bill passes its First Stage, and has been circulated, four days' notice of motion must be given before its Second Stage.

I realise the Minister's desire for urgency, and that he is coming to the Dáil to ask for privileges, but I would like to find out whether, having asked the Dáil for that consideration, the Government of which he is a member is prepared to give the Dáil the same consideration, or whether we are to be treated with the same kind of consideration that we had last week. If it is the intention, generally, to treat the Dáil roughshod, as was done last week, then, I think, that the Standing Orders should be complied with, and that there should be no breach of them in these circumstances. If there can be consideration given to the Dáil, as was done pretty generally for the last six or eight months, until the last fortnight or three weeks, then I do not think there need be any opposition to the suggestion of the Minister, but I think that we ought to have an assurance that there is going to be some kind of mutual consideration.

General MULCAHY: I feel that in this matter we are all rough-riden by circumstances. I only ask the consideration of the Dáil to have an early Reading of this Bill, because circumstances are driving pretty roughly and pretty hard in the matter of time. I understand, at present, I find it difficult to think that any section of the Dáil has really been roughly ridden on the part of the Ministry, except in circumstances in which the Ministry have been very much pressed and roughly ridden themselves. I am prepared to accept a Reading of this Bill on any date that will enable us to get it through. It is a matter which is really urgent, and which it is most important should get through before circumstances would lead up to the dissolution of this Dáil. I think the Ministry generally would appreciate very much if Deputies would meet them to the extent of allowing the Bill to be read a Second Time on Thursday.

CATHAL O'SHANNON: I would press that someone rather than the Minister for Defence would meet Deputy Johnson in the spirit in which the Deputy has shown. We are, of course, as the Minister points out, all subject to circumstances of time. We recognise the limits of time, and everything like that. But there are other things that the Minister who has just spoken does not realise as Deputies in the Dáil do, and that is that certain things have been done without as much as five minutes' notice. We have no desire at all to obstruct the Minister by sticking very tightly to the Standing Orders if he wants a little ease in that matter, but there has not been the least sign on the part of the Ministry to show that the regrettable things that happened before will not happen again.

The PRESIDENT: If Deputies mean that we should take the Dáil into our confidence with regard to the measures which we are pressing for consideration, I have no objection whatever to that being done. Most of my time for the last couple of days has been taken up endeavouring so to accommodate the Dáil that due consideration should be given to the measures that have been introduced, and at the same time not to put too much labour on members of the Dáil. We, on this side, feel just as much as members on the other side what long sittings mean, and I am prepared at any time to go into the question of the consideration of the business to be disposed of if members are desirous of seeing me about that. If that be what is meant, I am prepared to see Deputies at any time from to-morrow morning. Members of the Dáil know exactly what the state of the business is that is pressing, and what the matters are that we wish to have settled and disposed of in the Dáil, and so on.

Mr. JOHNSON: The position is that we are prepared to facilitate the passing of absolutely essential Bills, which do not raise controversial issues, with reasonable consideration within the hours fixed in the Standing Orders for the transaction of ordinary business. If we are to be presented with controversial Bills, they will need to be considered, and considered very carefully, and they ought to be considered within the hours

that have been found necessary during the last six or eight months for the consideration of Bills. If it is proposed to suspend Standing Orders and to have all-night sittings, and if it is proposed to move Closure Resolutions and the like, then of course there is not going to be that mutual tolerance that Ministers seek. There are limits to the physical capacity of members, and the Dáil is entitled to have an opportunity of considering Bills which it is putting its seal to. If the Minister is intending to introduce Bills of moment that raise controversial issues, they require at least a reasonable amount of consideration, and that consideration ought to be given within the ordinary hours of sitting. If the Minister tells us that there is no intention to propose long sittings or Closure Resolutions or the like, then I, for one, am quite prepared to accommodate the Ministers in the matter of this proposed short-notice motion for Second Reading.

The PRESIDENT: If the members of the various parties would undertake to see me to-morrow morning at 11 o'clock I will put before them what is really pressing in the nature of legislation. If it is pointed out that some of it is of a controversial character, and Deputies take exception to its being dealt with, I am prepared to give every consideration to that view and to recommend it to the Executive Council. I believe that there is an opportunity of finding accommodation in the matter. I think that Deputies will realise that it is our wish that the same cordial and harmonious relations that existed since we met here should be continued to the end. Members of the Executive Council are particularly anxious for that. I believe we will be able to make some arrangement whereby we can meet members of the various parties and see if we cannot arrive at some accommodation.

Second Reading ordered for Thursday next.

DAIL EIREANN COURTS (WINDING UP) BILL, 1923.—SECOND STAGE.

Mr. O'HIGGINS: This Bill is certainly belated. I imagine that the chief criticism to be directed at it is that these Courts with which it deals have been disbanded by the Executive Council and

by the Provisional Government before it for the best part of a year now, and that there has been hardship on people who were litigants in those Courts, or had cases pending in those Courts, by reason of the fact that steps were not taken sooner for the proper winding up of their affairs. One can only meet that criticism by pleading the necessity for a sense of proportion in times like those through which we have passed, and by pleading also certain practical difficulties that arose in endeavouring to compile the necessary data for the Winding Up Bill.

You had through the country an improvised system of justice which was forged more as a weapon against the British administration in exceptional times and exceptional circumstances than as a definite system which would meet and answer the needs of normal times. It might be well that we would briefly survey that system and the Courts which functioned within it. Taking the lowest type of Court first, you had Parish Courts, having jurisdiction in their respective parishes for the hearing of small civil claims under £10 in value, petty criminal offences, taking evidence and returning serious offences for trial to Circuit Courts, cases arising out of cottier tenancies and monthly and weekly tenancies. Then there was the District Court or Constituency Court, having jurisdiction in the following class of cases:—Appeals from Parish Courts, civil claims from £10 to £100 in value, title cases and cases exceeding £100 in value or damage where no question of law arose, ejectments and actions hitherto brought to the County Courts. Then there was a special sitting of that District Court at which a Circuit Judge attended, and when that Court sat in special session with a Circuit Judge attending, its jurisdiction extended to criminal trials, civil claims not within the jurisdiction of the ordinary District Courts, equity cases and relief, such as *certiorari*, *mandamus*, *quo warranto*, and appeals from ordinary sittings of that Court.

The Supreme Court had unlimited jurisdiction over all civil and criminal cases, and also heard appeals from the Circuit Sittings of the District Courts. There is one matter that would need to be stressed when surveying these Courts and their jurisdiction; that is, that no one of those Courts, from the Parish

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Court to the Supreme Court, was given jurisdiction by the Dáil in licensing matters. That jurisdiction was explicitly withheld. It was the unanimous and emphatic view of members of the Dáil Cabinet at the time that it was inadvisable and unwise to attempt to assume jurisdiction in matters of that kind. I mention that because when these Courts reappeared during the Truce period they were not as careful and not as pure in their administration as they were in their first youth and enthusiasm. They gave in many places, or purported to give, certificates to people to deal in intoxicating liquor. They had no such jurisdiction. It was specifically and explicitly withheld from them. The only course open to my Department was to refuse absolutely, and in all cases, recognition of those certificates on the grounds that the Courts which professed to have power to give them were acting *ultra vires* in giving them.

Shortly after the Provisional Government was set up, and when the ordinary Courts, with their complete machinery, had been taken over by the Provisional Government, it was considered unnecessary to have any further duplication of judicial work, and accordingly the Dáil Courts were abolished and a Committee was set up by the Minister for Home Affairs in October last to deal with the outstanding business of those Courts. Deputies will remember the period of dual jurisdiction—or dual lack of jurisdiction, to be more accurate—and all the abuses that grew out of that period. People going into one Court and finding the weight of evidence against them moved into the rival Court for an injunction to stay the other party to the litigation from proceeding further with his case in the Court which seemed likely to decide against them. That anomaly could only be ended in the way in which it was ended, by a frank recognition of the fact that all the official Courts and all the official machinery of justice in the country had passed definitely into the hands of a representative Executive responsible to the Irish people, through their elected representatives in the Dáil, and the hastily improvised Courts that had been set up through the country to tide over an exceptional period were abolished, and the official State Courts were adopted.

The Committee which was set up in October last had considerable difficulty in collecting data throughout the country, but efforts have been made to collect, as far as possible, the records and accounts of the Dáil Courts, so as to facilitate litigants and claimants whose business remained unfinished, owing to the prevailing conditions. Owing to the fact that a number of Court Registrars and clerks adopted a hostile attitude towards the Government, it has not been found possible to obtain complete returns. In February and March last, it will be remembered that notices were published in "*Iris Oifigiúil*" and in the Dublin and provincial Press inviting parties whose decrees remained unexecuted at the date of the abolition, to forward particulars, with a view to having their decrees registered for subsequent enforcement. A special form of application was prepared and supplied to such parties for the purpose of having their decrees verified by affidavit. The total number of applications received from solicitors and litigants for these forms amounts to 10,000, and about half of the forms so issued have been returned and duly verified. The Ministry has made some progress already with the task of serving notices on the parties affected by these decrees, so as to give them an opportunity of lodging properly grounded objections, if any, to the enforcement of the decrees. The District Registrars and the Parish Clerks have, furthermore, been circularised to lodge final accounts and statements, and, excluding the Six County Area, about half of the District Registrars and about a quarter of the Parish Clerks have carried out these instructions. It will be observed that the Bill is drafted so as to enable the Judicial Commissioners to enforce delivery of these accounts in all cases. It is thought that very little definite objection will be urged to the Bill, and that the principal comment or criticism will be that it has been over-long delayed. Deputies will notice that it provides for the appointment of one Judicial Commissioner and certain Assistant Commissioners, to deal with different classes of business; to deal, in the first instance, with cases that were pending in the Dáil Courts, and Appeals from enforcement of decrees given in the Dáil Courts. The Assistant Commissioners may hear: "Any application for the hearing and the termination of a

proceeding which was pending in a Dáil Parish Court or a Dáil District Court, any application for the hearing and the termination of an Appeal from a Dáil Parish Court which was pending in a Dáil District Court when the authority of such Court was withdrawn; any appeal from a registered decree of a Dáil Parish Court or an ordinary sitting of a Dáil District Court; any interlocutory application in any of the above mentioned cases." There will lie an appeal from any one of these Commissioners to the entire body. It is proposed to set up a Registry in which all decrees of the Dáil Courts that have not been executed will be registered, and after inquiry, and in the event of no appeal being made to the Commissioners, these decrees so registered will be binding on the Under-Sheriff in the same way as decrees given by the ordinary State Courts, and will be executed accordingly. Certain sums have been due in connection with these courts and their operations which it has not been possible to pay, pending the passing of this Bill, and there are provisions in the Bill dealing with the financial aspect. Section 20 defines the general powers of the Commissioners: "For the purposes of this Act, the Commissioners shall have full power and jurisdiction to hear and determine all matters, whether of law or fact, which shall be duly brought before them under this Act, and shall not be subject to be restrained in the execution of their powers under this Act by the Order of any Court. The Commissioners, with respect to the following matters—enforcing the attendance of witnesses, the examination of witnesses orally or by affidavit, and the production of deeds, books, papers and documents; and issuing any commission for the examination of witnesses; and punishing any persons refusing to give evidence or to produce documents, or guilty of contempt in the presence of the Commissioners or any of them sitting in open Court; shall have all such powers, rights, and privileges as are vested in the High Court for such or the like purposes, and all proceedings before the Commissioners shall in law be deemed to be judicial proceedings before a court of record." Section 18 deals with the accounts of the Courts, and takes power to make payments which are found to be properly due. "Every person whose duty it was to receive or pay out monies

in connection with any Dáil Court, or who came into possession of any monies for which he was accountable to a Dáil Court, shall within one month after the passing of this Act deliver to the Accountant a full and true account of all such monies, and pay to the Accountant for lodgment in the Dáil Courts Fund the balance appearing on such account to be still in his hands. Every person who has in his possession any accounts relating to the receipt or payment of any monies for which such person or any other person was accountable to a Dáil Court, shall within one month after the passing of this Act deliver such accounts to the Accountant." Then there is provision for default in rendering such accounts. The Committee which sat, and which was set up in October last, consisted of one of the judges of the Dáil Courts, Mr. James Creed Meredith; Mr. Nicholls, T.D., acted on that Committee also, and Mr. Goff, who is now a District Justice. The Bill is based substantially on the recommendations of that Committee, and it is hoped that it will be found to cover all the business that is outstanding from the winding up of that improvised system of administering justice. There have been cases, unfortunately, where people holding a decree of the Dáil Courts had judgments entered against them in the State Courts, and these judgments were acted upon. There was no remedy for that situation short of the introduction of a Bill of this kind. Steps were taken to put every possible obstacle in the way of that kind of thing happening. Solicitors were written to and urged to stay the proceedings, and were warned that this Bill was being introduced. I think we succeeded in keeping down the anomalies or hardships to a minimum pending the introduction of the Bill.

Dr. WHITE: I second.

Mr. GAVAN DUFFY: It is a curious coincidence that the Bill for the burial of the Dáil Courts should be introduced twelve months to a day exactly after the panic decision of the Dáil to kill the Dáil Courts. I dissented then, and I dissent now, from that decision, which I think was of little credit to the Executive, and I am sorry that this Bill does not propose that these Courts should be continued and perpetuated for certain purposes. I dissent wholly from the view that we have anything to be

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ashamed of in the Dáil Courts. I dissent from the view that they were incompetent, and I dissent from the view that they ought to be buried. I was sorry, in listening to the Minister, to hear no tribute paid to the men who ran these Courts in the face of great difficulties because they were loyal to the Government of the day. Men often, who could not take part in the armed conflict, but who wanted to co-operate as best they could, came forward at very considerable risk to themselves and to their businesses, and played a very fine part in getting these Courts going, and in administering them, and the country knows that it was extraordinary to see the justice and the skill with which people unversed in judicial matters managed these tribunals and the cases that came before them. It was a very great tribute to the common-sense of the people, as well as to the courage of those people, and incidentally the setting up of these Courts, which effectively smashed the British machinery except here in Dublin—smashed it and rendered it utterly useless—was one of the things which did most outside Ireland to make our name respected and to show up the fact that the English occupation was usurpation. It was a thing that had not been done in other countries. It was a striking thing, a great thing, and a thing of which we have a right to be proud. The Minister told us that some of these Courts engaged in licensing cases, and that they had no right to do so. Well, I have heard of one Court that dealt with a divorce case. When you have people who are not trained to this kind of thing administering the law, of course there will be mistakes and abuses, but it would have been more generous not to call attention to small matters of that kind, but rather to register the fact that these Courts were something we had reason to be proud of, and that they did their duty manfully and well. Of course they made mistakes, but in every case where you had men qualified—I do not mean technically qualified, but qualified as business men and men of common-sense, and qualified as decent human beings trying to do their best—wherever you had men not acting under personal or small motives, you did have a very large measure of success in these Courts set up by the Government

I suppose it is admitted—I hope it is admitted—that at least until the Treaty was signed the only lawful Courts in this country during the fight with England were the Dáil Courts. The only lawful, legitimate Courts were the Dáil Courts; and in a country where law has naturally and properly been a matter for contempt and suspicion because it was administered against the people, it was something to have Courts which were the people's own, and it would have been worth a great deal to perpetuate a system of that kind in so far as it could be perpetuated in conjunction with the more technical machinery we have at hand, and which could easily have been perpetuated for matters of ordinary commercial disputes and any agricultural disputes which do not require a great deal of law, and which require mainly common-sense. It would have gone a long way to make the people feel the law was their own. Therefore I regret this Bill, designed as it is to abolish the last vestige of these Courts. The Dáil is aware that during the past twelve months—I think I would be accurate in stating a longer period—there have been a number of criminals awaiting trial. They have been waiting in prison until somebody would try them. I fancy it will not be disputed that they are still waiting in prison for somebody to try them. The Assizes from Dublin Castle could not go out, but if the Dáil Courts had been continued they could have gone out and administered criminal justice, and they would have fulfilled during that particular period a very useful function. Nobody can but regret that men charged with crime, however criminal some of them may be, should have to wait for a year in prison before their cases can be attended to. I had hoped that the Minister would see his way to communicate to the Dáil the Report of the Departmental Committee which he set up some time ago on this matter. After all, we are dealing with this Bill without much knowledge. We are acting very much in the dark, because these Courts, scattered up and down the country, are Courts of which some member will know something here and another member will know something there, but of which we have no adequate data to enable us to judge this Bill properly.

If one assumes, as the Minister assumes, that the Dáil Courts must go, this Bill may be in most respects a very

admirable one; but we have not the data to enable us to judge that, unless we have in our hands at least the Report, which I believe was unanimous, of the men who were specially appointed by the Minister for Home Affairs to look into this matter. The Minister admits that hardships have occurred. This Dáil has no adequate means of judging whether those hardships are fairly met by this Bill, unless it sees what the men designated to report on the matter have to say about it. I fear the bureaucratic tendency which we have observed so often will again prevail, and that the Minister will consider that in the highest interests of the public safety it would be better not to give to Deputies the Report compiled by a Departmental Committee of his Department. If that decision is come to I regret it, but I do suggest that since it is the fact that persons have suffered, and perhaps suffered severely, because they obeyed the decree of the lawful Government of the day and went before Dáil Courts, it is our clear duty, if we claim to be successors of that lawful Government, to indemnify the people who suffered in that way. I do not know if the Minister has particulars of the number of cases where persons holding Dáil decrees were subsequently compelled to respond in money or otherwise to contrary decrees made against them by the other Courts. If there be only one such case—and there must be a number—it seems to me this Dáil cannot rid itself of the duty of doing justice to people who got into that trouble solely because they did as they were told by the lawful Government of the day.

It may be that the amount involved is not much. I hope that is so, and if it is so it will be all the easier for the Dáil to do the right thing and to see that these men at all events will not be penalised for doing what was right. There is one Section of the Bill which I view with no pleasure, and that is Section 2, Sub-section 3, whereby the Dáil is asked to provide that every Commissioner appointed under this Bill may be dismissed or removed at the pleasure of the Executive. That provision is very reminiscent of the Appeal Committee under the Public Safety Bill. What kind of justice will you get if you allow a Minister to appoint a Judge for a specified purpose, with the threat hanging over him that he may be dismissed at any moment? I suppose

these Judges will not last very long, but their functions might last for 12 months, and it seems singular that they cannot be assured of their tenure during good conduct for that period. I do not pretend to understand the reason for that Section, but I do emphatically say that the principle is wrong that any Judge, even though he be a Judge appointed only to wind up the Dáil Court business, should be liable to be dismissed at any moment by the Executive. That principle is utterly indefensible. The Minister, in Section 26, makes the important admission that it would be wrong to allow any proceedings to be brought against anyone, whether in the Dáil Courts or outside them, "either or on account of or in respect of anything done or omitted to be done under the authority of the decree regulating the Dáil Courts." In that connection I want to draw attention to a case which deserves more attention than it has received from the Minister.

It will be noticed that in this Bill there is no provision at all for those persons against whom decrees were given during the fight with the English by the English Courts because they did not attend those Courts to defend themselves. In other words, persons who obeyed the Government, which told them not to go near the British Courts, and who said "We will deal with the Dáil Courts alone," do not, as far as I can see, get any protection under this Bill in respect of judgments given against them in their business by the English Courts which they refused to attend. The Minister said he was anxious to cover all classes of cases to which those Dáil decrees were related. There is one class of case—I do not know how extensive it is or how many people are in that category, but I fancy there must be quite a number—of people who have had decrees of some kind or another given against them by the British Courts because they did not attend and because they took the advice and followed the order of their own Government.

I have here particulars of one case, which I say to the Minister is typical of others in this respect. It is a case that has been dealt with by the Minister's Department with a cynicism which is really surprising. In July, 1921, the Listowel Urban District Council received notice from a solicitor on behalf of a certain workman that he was taking proceedings in the usual way by way of arbitration in the County Court to claim

[Mr. Gavan Duffy.] damages for injuries which, as he alleged, he had received in the service of the Council, and which, therefore, the Council will be liable to pay. The Council on the 31st July, 1921, had this notice before their meeting, and they unanimously decided that they would ignore the summons.

Mr. O'HIGGINS: Give me the dates of that?

Mr. GAVAN DUFFY: The 31st July, 1921. That, I fancy, would be a few days after the Truce. The solicitor for the plaintiff was a gentleman who had been conspicuous for his advocacy of the Dáil Courts, and in the Dáil Courts he had, perhaps, more cases than any other practitioner. Therefore it is safe to assume that his client, who proceeded before the English County Court Judge, was responsible for this curious proceeding, and that it was not the solicitor who was responsible. The Council told the plaintiff that they would have nothing to do with the County Court, that they recognised the Dáil Courts only, because that was the order given to them by the Government. The plaintiff went on, all the same, and he recovered judgment to the amount of thirty-five shillings a week, a sum which last January, when proceedings were taken to enforce this decree, amounted already to nearly £200. It must be well over £200 now. There was an insurance company in the case, and when the decree was given, in the absence of the Council, against the Council by the County Court Judge, the insurance company refused to pay, and added that the plaintiff would not have recovered one penny if the case had been defended. The plaintiff did not try to enforce his decree for a long time. But he appears to have thought that last January would be a proper time to see that he would go out and get it. When he threatened to enforce this decree, got in defiance of the Government of the day from an English Court, the Council very naturally wrote to the Government asking what they were to do. They first wrote to the Minister for Local Government on the 24th January, and I do not think they got a reply. They wrote to the Minister for Home Affairs on the 15th February a long detailed letter, setting out the case which I have summarised, and pointing out that they had

acted throughout upon the orders given to them by the Government, which they recognised as the only lawful Government. Briefly, what followed was the first reply from the Department of the Minister for Home Affairs regretting that under the law as it stands that the Minister is unable to interfere with the decision of the County Court Judge. The local body then appears to have taken up the matter with the Minister for Fisheries, no doubt as Deputy for the district. The Minister for Fisheries extracted a memo. from the Minister for Home Affairs in which the amazing suggestion was made—and I invite the attention of the Dáil to this—"that there is no power to order a re-trial, that the Urban District Council would be well advised in making an effort now to compromise the claim." He calls it an effort.

Mr. O'HIGGINS: What is the date of that memo.?

Mr. GAVAN DUFFY: It is the 8th March, 1923, and is signed by the Minister for Home Affairs. The Minister says: "It must be admitted the present state of the law which penalises many who remained loyal to the Dáil Courts in troubled times is hardly satisfactory." Then he proceeds to say: "It should be noticed that the case in question is in a slightly different category. To begin with, the Urban District Council was made a party to the arbitration during the period following the Truce, in July, 1921," and then he proceeds to suggest that "the Council in question were not loyal to Dáil Éireann, and therefore not entitled to much consideration."

Mr. O'HIGGINS: You had better read all that.

Mr. GAVAN DUFFY: I was about to do so. It goes on "as to the best of my recollection during the more difficult period of the war the Listowel Council seemed to have remained politely indifferent to the very reasonable proposal of the Solicitor to have the case re-heard before the Dáil Circuit Court, it seems to me that their refusal to enter the Dáil Courts was inspired by motives other than purely patriotic motives." The Minister cannot have carefully read the proposals for a re-hearing, because the proposals for a re-

hearing were declined simply on the grounds that it was too late to get the Insurance Company in Dublin interested in the case, to defend it. I think his information as to the conduct of the Council is very far from being accurate, as the Deputies from the District can testify. However, I do not want to deal at any unnecessary length with this case, but I do want to emphasise it as the kind of thing which is completely left out of this Bill. To conclude, there was a very effective answer from the Council. The solicitor to the Council observed that the Minister himself who is now Minister for Home Affairs, in referring to the two courts functioning in the country, had said: "Pending a settlement with the British Government, and pending the signing of the Treaty, they were not abandoning that fighting machine." This was referring to the Dáil Courts. Then he continues, "and they would have been very foolish to do so. Consequently, throughout that period they had people objecting to go into the British Courts. The decrees of the Court during that period might deserve examination and inspection when and where a more ordered state of things prevailed. It ought be open to the Minister to apply for a re-hearing of particular cases which occurred between July and December 1921, and for many months after." That purports to be a quotation from the Minister himself. The Solicitor to the Council also observed that if it was right to reopen Malicious Injury cases, and to reopen them because the Courts that gave the Malicious Injury decrees were notoriously biased and partial and unfair, if that were right when no notice has been given, how much more is it right when a Government itself prohibits people from going into English Courts, that specific power should be given to reopen undefended cases where there is any evidence that they were undefended because the defendant would not disobey his own Government. I ask the Dáil if that is not common justice. We are the successors—make no mistake about that—of the people who gave that order to the country at large.

Mr. O'HIGGINS: Has the Deputy any record of the prohibition?

Mr. GAVAN DUFFY: Do I understand the Minister to suggest that there

was no prohibition from going into the non-Dáil Courts?

Mr. O'HIGGINS: I ask the question: Have you any record of the prohibition?

Mr. GAVAN DUFFY: I understand the Minister to suggest that there was prohibition from going into other Courts. I am lost in amazement at that at this time of day. I did not bring down here records of matters that are public knowledge and which every man in this Dáil knows. I have no doubt ample records could be produced if necessary. It would be very interesting to have a denial from the Minister, if that is the case that is going to be made.

CATHAL O'SHANNON: It would be illegal to produce them.

Mr. JOHNSON: It would be sedition.

Mr. GAVAN DUFFY: I have at least the record I have just read out from the Minister's own mouth, that people would be very foolish if they recognised the English machine. The Minister's Department wrote on the 29th May—this time it will be observed that a new stunt is discovered, a new reason against this unfortunate Council to prevent the Ministry from coming to the rescue—"I am to observe that it is very doubtful whether persons or corporations who neglected to apply for protection to the Dáil Courts in the proper manner and at the proper time will come within the scope of the proposed Bill. I should be glad to learn why in the case now under discussion application was not made to the proper Dáil Courts on behalf of your Council for an injunction to restrain the plaintiff from proceeding in the British Court. Had such an injunction been sought your Council's claim for reconsideration of the case would be admitted without hesitation." That matter was also dealt with very effectively in a long letter which, I think, it is unnecessary to read from the Solicitor to the Council. The Dáil will observe that the case for the Dáil Government at the time was that these other Courts were usurpers, that they did not exist as real Courts, and that you must not recognise them. If you take that stand you cannot in the same breath say if a case was brought against you in these legally non-existent Courts that you must go before the Dáil Courts and get an injunction, because the case of the

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Government is that it does not matter what a British Court says, it is invalid, it is nugatory—it is nothing. Therefore, why ratepayers' money should be wasted by applying for an injunction it is rather difficult to see, and it is only at the last moment that this particular brilliant excuse for not dealing with the Council's reasonable request was thought of in the Ministry of Home Affairs. The solicitor points out that never were people ordered by the Dáil Ministry to apply for injunctions which they considered both costly and useless, inasmuch as the injunctions when granted would have no effect whatever.

I do not think I need pursue that. It is too obvious, and even the Minister can hardly now stand over that particular line against the Council. This Council claims to have suffered more than any other public body in Kerry at the hands of the Crown during the period of the terror, and naturally were not favourable towards recognising British Courts or British Court summonses sent to them at a time when the Dáil Courts were sitting every fortnight. I could, but I think it is unnecessary, say a great deal more about the record of that Council which is now frowned upon by the Minister, but which, from my information, did its duty and did it admirably. Now, the last letter from the Ministry was dated 5th June to the solicitor, and in that letter, while repeating that the Council had been guilty of negligence because it did not apply for an injunction the writer of the letter says:—"The Ministry is, however, prepared to admit that the question involved is one which deserves very careful consideration, and it is still possible that a clause may be added to the draft Bill which, if approved by the Oireachtas, will bring such a case within the jurisdiction of the Judicial Commissioners whom it is intended to appoint." I will conclude that matter by reading the reply of the Council's Solicitor on the 14th June:—"My clients say, and I agree, that the only instruction they got at any time was to refuse absolutely to recognise the British Courts, and this they did, and brought all their cases in the Dáil Courts as provided by the rules issued by the Home Department. If, as is suggested, you require evidence to discriminate between persons who used the Dáil Courts and those who did not, my clients are prepared to prove at any time

that the Listowel U.D.C. propagated and supported these Courts to an extent second to that of no public body in the country." Be that as it may, what is clear is that if this Bill goes through in its present form without dealing with cases of that kind, of which there must be a good many, an injustice is being done to people who were loyal to the Government of the day. I ask the Dáil, and the Minister, not to allow that injustice to be done, and to deal with the matter by a very small amendment to the Bill, for instance, an amendment in Section 26, where there is an indemnity to persons acting on the authority of Dáil Courts, or something of that kind. I submit in any case that where a person can prove that he acted honestly in declining to go before the British Courts, and that a case was decided against him in his absence, it is our clear duty to see that that person is not prejudiced by having done as he was told by the Government of the day.

Mr. FITZGIBBON: There is one matter, which seems to me to be a question of principle, involved in the Bill on which I would like to have some light. It is contained in Section 27. The title describes it as "A Bill to provide for the appointment of Commissioners to dispose of cases which were pending in Courts established under the authority of Dáil Éireann, and to establish a Register of the decrees, and to make other provisions for the purpose of winding up the Courts aforesaid." If Section 27 means what it appears to me to mean, anybody who had any cause of action, that he might have promoted in any Court at any time since December, 1918, and who has been barred by some Statute of Limitation, or something of that sort from proceeding with it, from the date on which this Bill becomes law will have a further period of three months to go ahead with his cause of action. Whatever justice there may be in that it does not seem to me to have any connection with the winding-up of the Dáil Courts. It appears to me that the title of the Bill will require amendment in the direction of saying that it is "a Bill to authorise people to promote dead and gone causes again." Common sense has prescribed that many forms of action, assaults, breaches of promise and others of that kind, cannot be prosecuted after two years from the date on which the cause

of action accrued. I do not go into the question of debts which are dead after six years, but there are a number of comparatively trivial actions which are not permitted to be brought after a lapse of two years, for the simple reason that people are supposed to have forgotten or forgiven, and also because people against whom actions might be brought would have lost all the evidence they might have produced in their own defence. It seems to me extraordinary that in a Bill for the winding-up of the Dáil Courts such a Clause as this is included, which would enable anyone assaulted in January, 1918, to go on with that cause of action within three months after this Bill is passed. In ordinary law the claim would be dead and gone within two years. What in the existence of the Dáil Courts during a period, I think, of two or two and a half years would justify extending causes of action of that description from December, 1918, to some date in 1924? I rather think when this Section was framed the draftsman had some other matter in his mind, and used language that was far too wide to effect his purpose. After reading this Section in the ordinary sense, it seems to me the effect is to enable any person who had any cause of action that he did not prosecute in some Court, or within the proper time, that he may now go ahead, within three months after the passing of this Bill. Surely if a person had a cause of action there were two sets of Courts open to him. If he disapproved of the British Courts, the Dáil Courts were open. He could have gone there, and the proceedings he took would be validated or invalidated as the case may be. On the other hand, if he proceeded in the other Court he got his decree or got his action dismissed, and it was all over. Why people should now be given leave to proceed with claims that they did not think it worth while to prosecute in one Court or another since 1918 I fail to see.

Mr. JOHNSON: Deputy Gavan Duffy regretted that the Minister in introducing this Bill at this stage did not utter a word of praise for the work of the Dáil Courts during the period from their establishment to their supersession. I had to recall the great play that was made in the course of propaganda abroad out of the work of these Courts. I think it is not too much to say, outside perhaps the military activities—and even outside

the military activities if one is speaking of the educational value of the respective activities—no other activity had anything like the same effect on the minds of the people of other countries, as the institution of the Dáil Courts, their successful work, the courage of the people who instituted them, and the popularity and confidence that attended them. Deputy Gavan Duffy spoke of this being the burial service, or used some words of that nature, of the Dáil Courts. I hope that is not quite the intention. I hope there will be, in the coming Bill dealing with the judicial system, some substitute for the Dáil Courts, certainly of the more popular Dáil Courts, which will encourage local confidence in local decisions, and encourage the idea that the Courts are enforcing popular law, with popular assent, and that the person who is administering the law is not someone imposed upon them from a central authority in Dublin, and to whom they must look as someone apart. The Dáil Courts, certainly in the smaller cases at any rate, were considered to be of the people, and their judgments were respected and honoured, though no doubt they caused as much dissatisfaction to the injured party as any other Court. Nevertheless, they were in the main accepted, and the decisions were fallen in with. I took the popularity of these Courts and their success as the beginning of a real popular code or system of law that should be taken advantage of, and be continued. I do not think for a moment that the District Justice system takes the place of the popular Courts, and I would hope that in any new measure, intended to deal with the judicial system, we shall have something to follow the popular Courts that were established by Dáil Éireann, in the early years of the recent struggle.

I had noted this particular Clause 27 of which Deputy FitzGibbon has spoken, and I had noted it in respect of a particular case that Deputy Gavan Duffy had cited, and, speaking as a layman knowing nothing, I am glad to say, about Court procedure, it seems to me to meet the case of the Listowel Council, and that it would give such a Council or such a litigant who had stood by the implied orders, if they were not the direct orders of the Government of that time, not to enter the British Courts, the opportunity of appealing against any decision of these Courts.

Mr. GAVAN DUFFY: There could not be any appeal.

Mr. JOHNSON: If I am wrong in that, then I think some section should be introduced into the Bill to protect defendants who refused to abide by the decisions or to enter the Courts at the time, but who had good grounds for a defence, and to provide some means for reviewing their case.

Mr. GAVAN DUFFY: If the Deputy would allow me I would like to point out to him that there could be no appeal because the case was undefended.

Mr. JOHNSON: That is another illustration of the unwisdom of a layman trying to understand legal technicalities. But there is another reason for taking note of this section, and I hope the Minister is going to show a bold front. I can imagine the hullabaloo across the water if litigants who got judgments in British Courts at that time are now to have their cases retried under this section. Deputy FitzGibbon pointed out that under this section all classes of cases might be retried.

Mr. FITZGIBBON: No, Deputy Johnson must have mistaken me. I did not say anything about retrying cases at all. This section has nothing to do with the retrying of cases, but this section enables people to bring actions that they never attempted to bring during these years.

Mr. JOHNSON: I am quite mistaken then. I have in my hand now a little book that was published under the auspices of the Minister for Home Affairs at that time, describing the work of the Courts of Justice, Civil and Criminal, in the Summer of 1920, and it is really a wonderful record, and I think the praise they get in this booklet published under his auspices was well deserved.

There is a small matter, but, perhaps, raising quite a significant point, that I would also like to draw the attention of the Dáil to, and that is in Section II. It is the phraseology of the first sub-section. It is not quite new of course, it is more or less the practice in some of these Bills. It reads:—"It shall be lawful for the Governor-General on the advice of the Executive Council to appoint a fit and proper person to be

Chief Judicial Commissioner." It shall be lawful for him to do that. The phraseology rather suggests that it is optional, but reference to certain Australian Acts of this kind shows that the phrase is found to the effect that the Governor-General "shall appoint," which puts him in his proper place. Now I would urge upon the Ministry the desirability of not allowing enactments to fall into this habit, which would suggest that the Governor-General has the option of refusing the advice of the Executive Council upon such matters, and that we should, as a matter of common practice, if we have to introduce such a clause, recognise the position that that Officer of the State holds, and that we should say quite flatly that it is his duty to appoint such persons to an office that the Executive Council determines, and we should not suggest that he may do it and that it shall be lawful if he does it, which is rather to say it would be lawful if he did not do what he was told by the Executive Council. I hope the Minister will consider that, between now and the Committee Stage, and be prepared to accept an amendment upon these lines. In the main, I think, the Bill will probably meet the needs of the case, and that many of those people who have been seriously inconvenienced and more than inconvenienced, and have suffered a good deal, will have their grievances remedied, at least, to some extent by the passing of this Bill.

Mr. DARRELL FIGGIS: There was only one matter to which I wished to direct attention and Deputy FitzGibbon has already dealt with it, and that is Section 27. I think on the face of it Deputy FitzGibbon has made a pretty strong case against the right to let people come forward now and say that at such and such a time it was really their intention to have brought proceedings. We do not know whether such intention did ever exist. I think the *prima facie* case that Deputy FitzGibbon pointed out in regard to Section 27 is very strong, but lest it should be forgotten I want also to indicate that there is the opposite point of view. There are cases definitely and personally known to me that have been put before me in the last three months of people who had not in certain parts of the country Dáil Courts in which to proceed and who act-

ing out of loyalty to the Government of the time and which they recognise as their Government did not proceed in the other Courts available for them and who, not having availed of these other Courts, now find their cases statute barred. While I think the Section might with advantage be tightened so as to be less liable to abuse than it appears now to be, I should be sorry that the Deputy's great influence in this Dáil would cause the clause so far to be tightened as to exclude every case however definite and genuine, and the definiteness and genuineness of which could be and should be investigated by terms somewhat the same as those, though possibly less stringent.

Mr. G. NICHOLLS took the Chair at this stage.

Mr. O'HIGGINS: I cannot agree with Deputy Gavan Duffy that abolition of the Dáil Courts was unwise or unnecessary. My view on that is that the only unwisdom in our treatment of the Dáil Courts lay in the fact that we delayed overlong in abolishing them, and that we allowed the country and the commercial interests of the country to plunge about for many months in the chaos that was created by the dual jurisdiction, or the dual lack of jurisdiction, of two sets of Courts and two systems of justice. The Dáil Courts were, of their nature, occasional and provisional. They were a weapon forged, and hastily forged, in a special set of circumstances to meet the needs of a particular time. The British Petty Sessions Courts collapsed when their Executive arm withered, when the R.I.C. were compelled to withdraw from outlying stations throughout the country to the larger towns, and become in the fullest sense, an armed garrison, and when they ceased to be in any sense a police force. Then the Courts which were based on them crumbled. People resigned the Commission of the Peace, some of them voluntarily and out of sympathy with the popular struggle, and others under a certain suasion from Sinn Féin or the Volunteers, and the Petty Sessions Courts collapsed. Now that period was certainly a period of great restraint on the part of the people, of great selflessness, of great exaltation, and crime and minor abuses were at a mini-

mum through the country. But it was necessary to provide some kind of rough and ready tribunals where people could get the minor disputes that are inevitable from every day life settled in a spirit of neighbourliness and equity, rather than in a spirit of strict law, and these Courts for a period did very useful service. That period I place in the summer of 1920. I have not statistics and I do not know how many of these Courts could be said, in any sense, to have survived the intensive campaign that began in the autumn of 1920, and lasted pretty well until the Truce. I know as from September, 1920, we who were here in Ireland heard very little about these Courts. I do not know what may have been heard by our representatives abroad, and I do not know to what extent that which they had done was useful in foreign propaganda. I have no doubt it was very useful, but, as I say, from September, 1920, we heard very little of these Courts until after the Truce. But after the Truce we would have preferred not to hear many things that we heard about them. These Courts, which had certainly a useful record when they appeared first and had won a good name and their need of praise from professional people appearing before them, reappeared after the Truce only to be made the channels and the vehicles of corruption and abuse, and only to be used by people not in search of justice, but as an obstruction to justice. The system of plunging from one Court into another, seeking injunctions according as one thought the case was going to go, started about that time. It then became evident to any person with his eye on the signs of the times, and particularly evident to people in commercial circles, that if there was to be security for business enterprise in this country, if there was to be security for debt collections, and for these things on which all trade and commerce are based, that that period of dual jurisdiction would have to come to an end soon, and it became a question of how it was to end. There were really two ways by which it could end, the elimination of one or the other system, the elimination of the State Courts, or the formal adoption as State Courts of those hastily improvised tribunals that had functioned for a

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period throughout the country in opposition to the British Courts as they were at the time, or the elimination of these occasional improvised Dáil Courts.

Mr. GAVAN DUFFY: Or the amalgamation of both sets of Courts.

Mr. O'HIGGINS: The Dáil Courts had certain inherent defects. They were formed by a process of selection, and those who were selected to function in them were selected because of the prominence or the eminence which they had attained to in a revolutionary period by reason of the leadership which they had attained to in the Volunteers, perhaps, or in Sinn Féin. That fact gave them a hold over their communities and an influence in their communities which was useful for a period, for a period during which their communities were knit together by the bond of common resistance to British administration. I submit that these Courts had within themselves, by their very nature, the elements of dissolution. They were essentially occasional, and they could never have been adopted or adapted to meet the requirements of a normal situation. Further, you had this, unfortunately, that the movement which threw these Courts up was split from top to bottom; you had the poison and the bitterness of that split circulated into every hamlet and into every home in the country.

It was better in all the circumstances to let these rough and ready, improvised, tribunals which had done good work in a certain period go, with that record, like other weapons that we had to improvise for that particular struggle, and to face the fact that they had not within themselves the elements of a useful future for the country, or for the requirements of the people of the country. No man with any proper appreciation of the position through the country, the way the personnel of the Courts had gone, some one way and some another, would dream of trying to hold them together or to reforge them into any tribunal to meet the real practical requirements of the people with regard to the administration of law and administration of justice. Distance, they say, lends enchantment to the view. Deputy Gavan Duffy fighting, as I heard his colleague, Sean T. O'Kelly say, the battles of the Republic on the Continental front,

may have formed a highly idealised conception of these Courts. I did not. I was close up to them, and I did not form a highly idealised conception of them. I realised that they were essentially occasional, and I face the fact, and I ask the Deputy to face the fact, that when they reappeared after the period of terror that they did not reappear with that same high morale, or with that same disinterested spirit that did characterise them in their beginning. There is nothing like standing up to things, and there is nothing to be gained by simply being a *laudator temporis acti* and saying that they were the most wonderful things in the world. They were not. They were faulty, and, in their later stages, many of them were corrupt. They were not wonderful things for the ordinary requirements of the people in their everyday life; they were far from it.

The Deputy dealt with the case of the Llistowel Urban Council. I do not think, except that it be taken as a test case, or a typical case, that a detailed discussion of that particular case is relevant, but I want to say this, that I happened to be in the Dáil Department of Local Government and I could tell the Deputy—I do not propose to take the time of the Dáil with it—that the excess of patriotic fervour which prompted the Llistowel Urban Council on the 31st July, 1921, to refuse to be represented as defendant in a case, because the Court was British, is certainly very surprising to me, in view of the things that I know of its record in earlier times. I even suggest to the Deputy that the considerations which prompted the refusal were not entirely foreign to the fact that the plaintiff, Carroll, had some personal and purely local unpopularity. Let him, to use a colloquialism, “put that in his pipe and smoke it.”

Mr. GAVAN DUFFY: I know nothing about the personal merits of either parties, and I would ask the Minister to put this in his pipe and smoke it, that the only lawful Courts from July to December were the Dáil Courts—the only lawful Courts in the country.

Mr. O'HIGGINS: I put this to the Deputy that there was not an emphatic or a definite prohibition issued against going into the British Courts. The Dáil Courts were set up to provide an alter-

native tribunal for people who were unwilling to give any recognition to the British system, or the British administration. The Deputy knows, or ought to know, that throughout that whole time cases were heard in British Courts. People did go in and the objection was rather to initiating or to being responsible for initiating proceedings in the British Courts than appearing as defendant when others had initiated proceedings. The Deputy knows too that there was a certain class of business which the Dáil Courts did not attempt to assume jurisdiction in; they left the thing, in a kind of tacit way, to be dealt with by the other system of Courts. Generally, there are things with regard to that whole period about which the Deputy ought to furbish up his memory.

I have no objection to stating clearly the difficulty about putting in this Bill a provision to the effect that people who were not represented in British Courts, and who had decrees given against them, ought now to get an opportunity of appealing. I have no objection to stating that. If we put in, and we have not finally decided not to put in, such a provision it will bring to the surface all kinds of bogus cases, because for the most part the people who had proceedings initiated against them in the British Courts, and who did not appear or take any steps whatever to be represented, or to put a counter case, had no counter case to put. It is something that the Law Adviser is very reluctant to recommend that now, at this stage, after many months you are going to turn around and say that all decrees given during that period in which only one party was represented are to be reviewed by this occasional Commission which is being set up to wind up the business of these Courts.

Mr. GAVAN DUFFY: I ask the Minister to recollect that the people who have no counter cases to put do not stand to gain anything by having their cases reviewed. I am speaking of the genuine cases.

Mr. O'HIGGINS: The question is: can the Deputy give me genuine cases? Has he personal knowledge of half a dozen of these cases? We have not definitely closed our minds on this point. I am open to consider the matter further between this and the Committee Stage, but I am inclined to be quite conserva-

tive about it, and to warn Deputies against such a step as deciding to call into question decrees that were given so long ago and deciding that, without any particular data before them. I wonder how many Deputies have had it brought under their notice that it would be necessary or advisable to take that step. We have examined the matter very carefully in all its bearings, and we are not at all inclined to the view that it is wise, or that it is necessary to insert such a provision. This course of calling up things that were finished and done with and proposing to review them is always a doubtful step and a doubtful precedent to set. Deputy FitzGibbon commented on Section 27. Section 27 had this relevancy to the matter in hand, that recollecting the circumstances of the time—this conflict of jurisdiction, and the fact that the writ of any Court, if it was running at all, was running with a bad limp—it has to be faced that it is quite possible that people with quite a good case refrained from going into either set of Courts during that period fearing that the writ would not run.

Mr. DARRELL FIGGIS: I could give you such cases.

Mr. O'HIGGINS: We were so impressed with the aspect of things, so impressed with the fact, that to the ordinary quiet kind of person, who perhaps was not very partisan, it seems a useless expenditure of money, useless cost, to go into Court, and get a decree which was unlikely to be executed, the odds being 10 to 1, against. Neither the wheels of the British machinery, nor the wheels of such machinery as the Dáil could be said to have at its disposal, were turning very smoothly or very steadily, and we do think that many people refrained from litigation though having quite good cases during that period because of that particular condition of things.

This Section provides:—(1) If and whenever the time limited by any statute for instituting any proceedings in any Court of law or equity would, but for this section, have expired on any date between the 31st day of December, 1918, and the 16th day of April, 1922, such time shall be and is hereby extended for three months after the passing of this Act, and any such proceedings which shall have been instituted after the expiration of the time so limited by such statute and before the passing of this Act, or which shall be

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instituted before the expiration of three months after the passing of this Act, shall be deemed to have been instituted within the time so limited by such statute.

(2) This section shall not apply to any limit of time which can be extended by a District Justice under Section 6 of the District Justices (Temporary Provisions) Act, 1923 (No. 6 of 1923).

It provides that during a certain period, when the conflict was at its height, the operation of the Statute of Limitations shall be suspended, and it prolongs the time for entering suits. We have had considerable evidence, I can assure the Deputy, from the country of the necessity for some such extension, coming mostly from business people whose rightful claims are in danger of being statute barred by reason of the disturbed conditions during certain years.

Mr. JOHNSON: Will the Minister say whether the term "instituting" is intended to preclude the possibility of instituting an appeal and does it mean only the institution of a case entirely new?

Mr. O'HIGGINS: The word "instituting" in that section is equivalent to initiating proceedings. Except for a small matter of wording, that he seemed to dwell upon for a length of time out of all proportion to its importance, Deputy Johnson dwelt mostly on his hopes with regard to the coming Judiciary Bill. He expressed a wish that we would revert in some measure to something on the lines of the Dáil Courts.

Mr. JOHNSON: Arbitration Courts—that is, the smaller Courts.

Mr. O'HIGGINS: I think a discussion of that kind would be more relevant on the Judiciary Bill. But I want to simply stress the fact that the Dáil Courts had a period of glory and a period of usefulness, but that glory and that usefulness sprang very much from the self-imposed discipline of the people at that time, from the exaltation of the people of that time, from the selflessness which permeated them. I think it would be a very unsafe thing to say, judging from that entirely different set of circumstances, that such Courts, set up now in a different set of circumstances, would have the same success

or the same utility. Let us face it, that a good deal of the high morale, a good deal of the elevating effect of that movement, has run out of the bucket within the last 12 months and that you have a different people and a different outlook in the country, that you have demoralisation, that men who collected tens of thousands of pounds in 1919 could not be set to that task now, for a sufficient reason. We need not delay going into the question of responsibility for that, but let us not shirk the fact here. Legislating for the people of the country and in the interests of the people of the country, it is our duty to take cognizance of what are relevant facts, and it is a relevant fact that you could not set to the work of administering justice equally, impartially and impersonally between man and man, many who did that work and did it well in the early months of 1920.

Question put: "That the Bill be read a second time."

Agreed.

Third Stage ordered for Monday.

THIRD REPORT OF THE COMMITTEE ON PROCEDURE.

ACTING-CHAIRMAN (Mr. Nicholls):

Does any member of the Committee on Procedure move this Report?

Mr. FITZGIBBON: I am a member of the Committee on Procedure, but I got no expressed instructions with regard to that particular Report. I moved one some ten or fifteen days ago and it was referred back. However, I will undertake the task of trying to pilot this Report through. The first six proposed new Standing Orders deal with the procedure upon the opening of a new Dáil, and as we now seem to be in a clearly moribund condition it is eminently desirable that we should make provision for what is to happen when our successor comes into his own, and there will be the necessary procedure, after the election has been held, for the opening of a new Dáil. The Committee on Procedure have endeavoured to frame rules that will meet the situation that will then arise. The first of the new Standing Orders provides that when all the returns for the writs have come into the hands of the Clerk he sends the notices to all Teachtaí who have been returned

and notifies them that their attendance is required here on a day or days which will be set out in the notice, and it will be before the actual hour at which the Dáil will assemble for the transaction of business. The object of that is that those Teachtaí that have been elected may get through the preliminaries, the signing of the Roll and the making of any declarations that they may be required to make in the office of the Clerk before the duly nominated person who has to look after that part of the business. Then the Dáil itself will be in a position actually to tackle the work of the day and at the hour at which it has been summoned to commence business, and there will not be, as there was at the beginning of this Dáil and as there is in Parliamentary assemblies elsewhere, a waste, in some cases as much as two days, before the Dáil can be got to do the business for which it has been summoned to meet. I do not know whether it would be better to take these Orders one by one or to deal with them in groups.

AN CEANN COMHAIRLE (who resumed the Chair at this stage): It depends upon what the desire of Deputies is, whether we should take these Orders one by one, in which case it might be better to go into Committee, or whether we could move the adoption of the Report and allow anybody who wishes to raise any point to do it on that motion.

Mr. FITZGIBBON: I suggest it would be better for us to deal with it in Committee, because, of course, no amendments to these have been served or printed. I move that we go into Committee on the Report of the Committee on Procedure.

Agreed

THE DAIL IN COMMITTEE.

PROPOSED NEW STANDING ORDERS.

Group A.—Number 1.—When all the returns to writs issued for a General Election to Dáil Éireann shall have come into the hands of the Clerk of the Dáil he shall issue notices to all Teachtaí returned, notifying them that their attendance is required on a day (or days) to be named by him, which shall be prior to that mentioned in the Proclamation

for the summoning of the Dáil, for the purpose of complying with the provisions of Article 17 of the Constitution. The Clerk shall make all necessary arrangements for the purpose of this Order.

Agreed.

Number 2.—On the first day of the meeting of the Dáil subsequent to a General Election, the proceedings shall be opened by the Clerk at the Table reading the Proclamation convening the Dáil.

Mr. FITZGIBBON: No. 2 says that the proceedings are to be opened by the Clerk at the Table reading the Proclamation convening the Dáil. I do not think there is any question about that.

Agreed.

Number 3.—The Clerk shall then make a Report stating the manner in which he has issued the writs for such Election. This Report shall enumerate the Returning Officers to whom, and the Constituencies in respect of which, such writs were issued, and it shall also state the date or dates of issue. He shall also announce the names of all Teachtaí returned to serve in the Dáil, giving the Constituencies in each case.

Mr. FITZGIBBON: No. 3 states that the Clerk shall announce the names of all Teachtaí returned and their constituencies. That is a mere formality.

Agreed.

Number 4.—A copy of the writ of election of each Teachta and of the return endorsed thereon shall be laid upon the Table by the Clerk.

Mr. FITZGIBBON: No. 4, a copy of the writ of election is to be laid on the Table by the Clerk.

Agreed.

Number 5.—Dáil Éireann shall thereupon proceed to the election of a Ceann Comhairle, and a motion may be made to that effect by any Teachta, who has taken his seat according to law. The Clerk shall receive all such motions, put the necessary questions, and declare the results. The Ceann Comhairle shall, immediately upon his election, take the chair.

Mr. FITZGIBBON: No. 5 is altered a little, and it is important. The first business of a new Dáil shall be the elec-

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tion of a Ceann Comhairle, and any Deputy may move that motion when he has taken his seat in the proper way. The Clerk will be at the Table to receive motions, put the question and declare the result.

Agreed.

Number 6—An election shall be held for a Leas-Cheann Comhairle, and motions may be made to this effect after due notice, as prescribed by these Standing Orders.

AN CEANN COMHAIRLE: No. 6 makes a certain difference, compared with the old Report.

Mr. FITZGIBBON: Yes, it alters the old one. No. 6 provides that there shall be an election for a Leas-Cheann Comhairle and that motions may be made to that effect after due notice, as prescribed by the Standing Orders. The first business of the first meeting will be to elect the Ceann Comhairle. We will be able to proceed then. Notice of motions will be given for the election of a Leas-Cheann Comhairle and that will proceed in the ordinary way.

Mr. GOREY: Are we to understand that the Dáil will adjourn immediately after the election of a Ceann Comhairle and that no other business is to take place?

AN CEANN COMHAIRLE: Oh, no, not necessarily.

Mr. GOREY: Why then the question of the adjournment of the appointment of the Leas-Cheann Comhairle?

AN CEANN COMHAIRLE: There is no question of adjournment. The point is that a Ceann Comhairle must be elected before any business can be proceeded with. It is provided that the Ceann Comhairle takes the Chair. Other business may then be transacted and the election of a Leas-Cheann Comhairle must be provided for. What is provided for here is that he must be elected after motion made on notice. Otherwise some provision must be made for the election of a Leas-Cheann Comhairle, and if No. 6 were left out it might be assumed that he would be elected immediately.

Mr. FITZGIBBON: I think I can explain to the Deputy. The reason that an

alteration was made in dealing with the election of the Leas-Cheann Comhairle is this. We all know that when we come here for the first day of meeting a Ceann Comhairle has to be elected. He will be in the Chair and then people will be able to consider and turn over in their own minds who would be the best available Deputy as Leas-Cheann Comhairle, and notice of motion can be put down to elect a Deputy. It may be that more parties than one would like to nominate a Deputy and therefore due notice would have to be given, which will be the ordinary two days' notice provided for by the rules, I suppose. That will go out and if there is a contested appointment an election will be held at a later date, but it was not intended the moment the Dáil had elected the Ceann Comhairle that it should then adjourn and do nothing else. It would go on with whatever business it has been summoned to deal with, after appointing the Ceann Comhairle.

Mr. BLYTHE: A difficulty might arise which I do not think is provided for if this rule goes through. It might happen that a certain person whom the Dáil would wish to be Ceann Comhairle might not be present, might be ill on that day. Of course, somebody might be appointed temporarily to take his place. If the Leas-Cheann Comhairle cannot be elected on that day a certain difficulty might arise. Of course, somebody could be appointed temporarily but there is no provision actually in the Standing Orders for a temporary appointment, and some kind of a way out will have to be found. On the other hand if we did not require notice for the election of the Leas-Cheann Comhairle it would certainly be got over. It would not be so likely that both would be unable to be present to carry on the procedure.

AN CEANN COMHAIRLE: There is a Standing Order which says that in the case of the absence of the Ceann Comhairle and the Leas-Cheann Comhairle the Dáil may appoint a Deputy to act as Ceann Comhairle for the time being.

Mr. FITZGIBBON: There is a motion later on to delete that.

Mr. GOREY: My reason for raising the point was that when I saw this Clause here I thought it might apply to all the

other officers of the Executive Council who could not be elected. It seems rather peculiar that you can elect the Executive Council and the Ceann Comhairle, but not the Leas-Cheann Comhairle. It seems inconsistent. I am not making any comments, but I wanted an explanation.

AN CEANN COMHAIRLE: I think the difficulty raised by Deputy Gorey could be got over. I do not think there is anything in the Standing Orders as they stand that would prevent us proceeding with the business, but the difficulty of the Minister for Local Government is more real.

Mr. BLYTHE: It is, of course, a contingency that might not arise, but, on the other hand, it might, and on the first day before the Dáil is, as it were, properly constituted, and before it got to work is the time that it would be most awkward to be held up by any rigidity in the Standing Orders.

Mr. DARRELL FIGGIS: The difficulty put forward by the Minister is a practical one, and it is tied up with a larger one still, as I conceive it. We do have cases now where we have An Ceann Comhairle and Leas-Cheann Comhairle, and neither one nor the other happens to be in the chair at the particular time, still we go on with the business, and they are still not acting as Chairman. Some other Deputy is taking the place of An Ceann Comhairle. If that is a practicable procedure now, it could still be a practicable procedure, but the larger difficulty I am indicating now is—I believe it is the case in other places by the precedents of which we need not necessarily be tied—that either the Speaker, as he would be called, or An Ceann Comhairle, as we entitle him, or Leas-Cheann Comhairle, either one or the other, must be in the Chair, and a third party can only take the presidency while in Committee.

Mr. JOHNSON: The point made by the Minister for Local Government seems to depend entirely on the last sentence of Order 5, that the Ceann Comhairle shall immediately on election take the Chair. If that is deleted, then the point does not arise, and its inclusion is not at all necessary. If a Deputy were elected, and the Dáil agreed that that Deputy, who may not be present, should be the Ceann Comhairle, there would be nothing to preclude

his election, provided that the last sentence were deleted. If he were present, on that Standing Order, it would be the most obvious thing that he should take the Chair immediately. If not present, he would still be elected to be the Ceann Comhairle, and the Dáil for the time being, within the Standing Orders, could appoint a Chairman or Deputy-Chairman.

AN CEANN COMHAIRLE: I think that would solve the difficulty.

Mr. BLYTHE: I take it the business would be that the Clerk would still remain at the Table, and take a motion for the appointment for a Deputy to the Chair temporarily.

Mr. FITZGIBBON: This will have to be altered to provide in the event of the Ceann Comhairle not being present to take the Chair, that the Clerk in accordance with the Rule as it already stands should put the motion for the election of Leas Ceann Comhairle.

Mr. DARRELL FIGGIS: I understand that Deputy Johnson's suggestion to delete the last sentence from Order 5 would meet the case.

Mr. FITZGIBBON: No, you would then have to omit the whole of Order 6.

Mr. JOHNSON: I think that Order 6 is desirable, because it is not a temporary Chairman, it is a permanent office or at least an office for the Session. What is required is a Standing Order which would allow of the election of a Chairman for that Session or that Sitting, and even without that Standing Order it seems to be so obvious a thing that the Dáil would elect a Chairman of the proceedings for its Sitting in the absence of its official Ceann Comhairle or Leas-Cheann Comhairle.

AN CEANN COMHAIRLE: Supposing we take Order 5 as it stands, and add at the end—"in the case of the absence of the Ceann Comhairle the Dáil may, on motion made without notice, appoint a Deputy to act as Ceann Comhairle for the time being, and the Clerk shall receive all such motions, and put the necessary questions, and declare the results." That is to leave Order 5 as it is without deleting the last sentence, and in that case to insert the addition I have read.

Mr. DARRELL FIGGIS: In that case, seeing you have a positive assertion

[Mr. Darrell Figgis.]

in the last sentence, as it reads here, followed by another positive assertion, that particular addition should be preceded by the word "provided."

AN CEANN COMHAIRLE: Yes, "provided that in the case, &c."

Mr. JOHNSON: I propose the amendment suggested by An Ceann Comhairle.

Mr. DARRELL FIGGIS: I second.

Order, as amended, agreed.

Group B.—Motion to Proceed to the Next Business.

1. At any stage of a debate, other than a debate on any Stage of a Bill, a Teachta may rise and claim to move: "That the Dáil proceed to the next business," and this motion shall take precedence of all amendments to the original question: Provided that this motion be not made more than once during the discussion on any question.

2. This motion cannot be made where the original question is one relating to the ordering of public business, or the meeting of the Dáil, or in Committee.

3. If the Dáil resolves this motion in the affirmative the original question is thereby disposed of, and the Dáil shall proceed to the next business on the Order Paper.

Mr. FITZGIBBON: This is a group of three Standing Orders dealing with what is usually known as "the previous question." The object of this is to enable the Dáil when a discussion is going on, and the view of the majority of the whole Dáil is that it would be better not at the moment to come to a definite decision on it one way or the other, to shelve the matter for the time being. It is usually described as moving the previous question. The form in which we propose it should be dealt with here is if "At any stage of a debate, other than a debate on any Stage of a Bill, a Teachta may rise and claim to move: 'that the Dáil proceed to the next business,' and this motion shall take precedence of all amendments to the original question: Provided that this motion be not made more than once during the discussion on any Question." The object of that is to prevent its being used for mere obstruction. The effect of that would be, that if in the Dáil there are two sides which are extreme

one way or the other who want to get a decision on a point, and the moderate majority think it should be left alone for the present, it would enable them to say: "we do not want this matter decided here and now, let it wait for a better opportunity," and they would be able then to go on with the next business on the paper.

The Second Order provides that this motion cannot be made where the original motion is one relating to the ordering of public business, or the meeting of the Dáil or in Committee. The effect of that would be to interfere with the carrying on of public work or with the meeting of the Dáil. The reason that it cannot be made in Committee is that if you go on to the next business while in Committee on the Bill, all that would be wiped out altogether for the time being. In the consideration of the Committee on Procedure, it would be improper and might be used for the purposes of mere obstruction. The third order is that if the Dáil resolves this motion in the affirmative and the original question is thereby disposed of, the Dáil shall proceed to the next business on the Order Paper. I beg to move those three; they are so connected that they form one.

Orders agreed to.

GROUP C.—1. It shall be an instruction to all Committees to which Bills may be committed, that they have power to make such amendments therein as they shall think fit, provided such amendments be relevant to the subject matter of the Bill; but that, if any such amendments shall not be within the title of the Bill, they amend the title accordingly, and report the same specially to the Dáil.

Mr. FITZGIBBON: The next is merely a formal Standing Order dealing with the amendment of Title of Bills. When a Bill is in Committee at present no amendment can be brought in which goes beyond the Title of the Bill. This is intended to give Committees a little more freedom in dealing with matters of that kind. Theoretically when we are in Committee we are naturally a Committee considering a Bill referred to us; therefore the Dáil is not supposed to know what a Committee does until the Committee makes it report. If a Committee is instructed by the Dáil to deal with a particular Bill, and it introduces an amendment in that particular Bill which goes

beyond the provisions of the Bill as it came to them from the Dáil, they shall report the fact to the Dáil and the Title of the Bill shall be amended so that there will be a record of what the Committee has done.

Mr. DARRELL FIGGIS: I do not want to be picky in any criticism, but I feel there is a certain difficulty resident in this; perhaps I had better call it a contradiction rather than a difficulty. It says that in Committee the amendments must be relevant to the subject matter of the Bill. If the amendments are not relevant, obviously they cannot be considered under this Standing Order. If such amendments, having been adopted, go outside the title of the Bill, the Title of the Bill has to be revised so as to cover them, by which it appears that the subject matter of the whole Bill and the title are not coincident in terms. I had always conceived they would be. If an amendment is outside the subject matter of the Bill would it still remain within the title of the Bill?

AN CEANN COMHAIRLE: I think the point is that an amendment might be relevant to the subject matter and yet not be included in the Title.

Professor MAGENNIS: Could not that be met by altering the Preamble and leaving the title as it stood?

AN CEANN COMHAIRLE: This is a problem which arose several times recently and this is the British Standing Order on the matter. I think our own experience proves it is a very practical one. It gives the Chairman of Committees more liberty than he would have if all amendments offered would have to be within the Title of the Bill. It would be quite possible that a Committee when considering the Bill would find that a certain amendment might meet with the approval of the majority, or even with the general approval, and that the amendment would be a little outside the Title but that it would be relevant to the subject matter of the Bill; that is to say to the Bill considered as a whole. In that case under this Order the Chairman could accept the amendment, could put it to the Committee, and if the amendment were passed the Title could be altered accordingly and then a special report made. In view of our experiences of this kind of thing, and we had two or three cases recently, the Committee on

procedure thought that this Order would be suitable and it is an Order which has been found practicable in another place and the wording is the same.

Mr. FITZGIBBON: We had a case this very day in Section 27 of the Dáil Courts Winding Up Order. If that clause had been altered by way of amendment and while the Bill was in Committee I should have thought you would have no hesitation whatever in deciding the amendment was out of order because it went beyond the Title of the Bill. This very Standing Order which we now propose would enable the Chairman of that Committee to improve the Title of the Bill by adding "and for the purpose of winding up the Courts aforesaid and for extending the time for taking proceedings herein." It is equally clear such an amendment would be relevant to the subject matter although it might be outside the Title. To-day's instance seems to be the most perfect type of case that would be covered by our proposed Standing Order.

Order agreed to.

GROUP D.—1. In the discussion of supplementary Estimates the debate shall be confined to the items constituting the same, and no discussion may be raised on the original Estimate, save in so far as it may be necessary to explain or illustrate the particular Items under discussion.

Mr. FITZGIBBON: The object of the financial orders is that in a discussion on supplementary estimates the debate should be confined to items in that Estimate.

AN CEANN COMHAIRLE: This Standing Order also arises out of our experience.

Order agreed to.

2. It shall be in order, before entering on the discussion of the Items in a Vote, to move that the Estimate in question be referred back to the Minister in charge of the Department for reconsideration, with or without a specific recommendation.

Mr. FITZGIBBON: The second financial order enables the Dáil in Committee on Estimates, if it considers the whole estimate is unsatisfactory, to send it back to the Ministry which prepared it in order that they may bring it forward again, having considered any recommendation that the Dáil thinks fit to attach. It

[Mr. FitzGibbon.]

enables the Dáil to try and get the Ministry to revise the Estimate by reducing it or increasing it or making provision for something not already in it.

Professor THRIFT: I would like to ask whether the words "before entering on the discussion of the items" are exclusive and imply that a motion to refer the estimate back cannot be made after beginning the discussion of the items. Because it occurs to me that often it would only be during the discussion of the items that there would be a wish to refer the matter back. It might be only when the Dáil came to consider an item that what was involved in it would be discovered, and that then only the possibility of its being desirable to refer the Vote back would arise. If the inclusion of these words would preclude this, I think a change should be made.

AN CEANN COMHAIRLE: The difficulty is that if you are in Committee on a particular Vote you might have an amendment moved to reduce sub-head (a). There would be a discussion and the amendment put and carried or defeated. Another amendment to sub-head (b) or (c) or (d) would be put and then it would be considered that it would not be proper to have a motion to refer back the whole Vote in consideration of the fact that the Committee would have already spent time in discussing particular items and actually perhaps have taken divisions. It was therefore considered that before we went into a discussion on the items on the Vote we would have a general discussion and that a Deputy who desired to have the whole thing referred back should have his mind made up in the beginning before the Committee went into discussion on items.

Professor THRIFT: You have not quite answered my point. My notion was this:—We might be quite prepared to accept the Estimate as a whole at first with the information before us, but our views might alter altogether during the discussion of the items, and it might be desirable to have the whole matter re-considered by the Minister responsible for the Vote. I do not want to press the matter, if the deliberate opinion of the Committee is against me, but I think a case might easily arise when the Dáil would wish these words were not in the Standing Orders.

Mr. JOHNSON: I think the point should be made clear that, in practice, in the British Parliament the method has been, if you want to refer back for consideration an estimate, to vote for a reduction of the salary of the Minister, or if you want to increase the Estimate, you cannot do so simply because you are precluded from adding to the expenses except by a motion of the Minister. The procedure of trying to get reconsideration of Departmental policy by moving to reduce the salary of the Minister is not thought by the Committee on Procedure to be the proper way of doing it.

AN CEANN COMHAIRLE: The Constitution precludes it.

Mr. JOHNSON: You might have a most perfect Minister—as perfect as the Minister for Local Government—and you might not want to dispense with him or reduce his salary, but you may want him to change his policy, especially when you are dealing with Ministers who are appointed by the Dáil, responsible directly to the Dáil. The Dáil may say that the policy of the Department should be revised, and may, by virtue of their more perfect control of that Minister, influence the Minister for Finance. The procedure is, I think, much better than the other, and I do not think the point that the Deputy raises is a very valid one, because Deputies are supposed to have read through the items before they deal with the main question. It may be quite true that in the course of a discussion respecting an item in a Vote information might be divulged, but it is still competent to move for a reduction of that item or the amendment of that item may be taken without asking for a reconsideration of the whole Vote. I think the proposed Order as it stands covers the whole ground of those questions raised by Deputy Thrift.

Mr. DARRELL FIGGIS: There is one other matter that occurred to me and I waited to hear other Deputies before raising it. It seemed to me that it would be possible for an Ceann Comhairle to rule on this Order that a general discussion on the whole Vote may not arise except upon such a motion to refer back the Vote, and that it has been our procedure in the past to permit such a discussion before entering into the details of the

items. The procedure that way has been very useful and valuable, and we ought to preserve it. It would appear from these words: "It shall be in order, before entering on the discussion of the Items in a Vote, to move that the Item in question be referred back to the Minister in charge of the Department for reconsideration, with or without a specific recommendation," that my interpretation is giving the only way in which the whole thing could arise before entering upon the items.

Mr. FITZGIBBON: I think that is covered by the original Standing Orders. When this new Standing Order is read in with the existing Standing Orders it will appear quite clear what is the meaning of the discussion which refers to the Second Stage of the deliberations in Committee.

Mr. BLYTHE: I do not know really whether there is any necessity for this Standing Order at all. The passage of such a motion would be in the case of a member of the Executive Council. The dismissal of the Executive Council, or a member of it, if such a motion were passed, would ensue. In the case of an outside Minister, I do not know whether it would mean the dismissal of the outside Minister or the dismissal of the Executive Council, or both. That would be the only effect of passing such a motion. The Executive Council could not remain in office if a Vote on one of those Estimates were referred back. Whether there is any necessity for this rule is doubtful, because, if the Dáil desired to have a change of Executive Council, that change could be produced by refusing or reducing the Vote. By moving a motion it is possible, say, to move to have the total Vote reduced, and you get absolutely the same result as you would get from this, and you will get it probably in a clearer way. I do not see the necessity for it at all.

Mr. FITZGIBBON: I think the last Member of the Executive Council who should object to this Order would be the Minister for Local Government. He has on many occasions changed his mind and acceded to applications from various Deputies. Cannot you conceive the possibility of a suggestion submitted by a Member of the Executive Council being subjected to criticism here, so much that the very parent of it would have thought

it not unworthy of reconsideration? That would not put the Dáil to the very objectionable course of defeating a Minister upon his own Estimate. The object in this Order is to enable the Executive Council to yield gracefully, and without doing any harm to themselves or the country, or the Government, to the criticisms which have fallen—well-founded criticisms—and it would be open to the Minister or Government to move that the Estimates be referred back. I conceive that, in the future, we would have amendments of that description accepted by the Executive and reconsidered, instead of saying "This is what we choose, and if you do not accept that, put us out."

Mr. BLYTHE: Deputy FitzGibbon's statement, of course, makes this rule one to be discussed more carefully than we would have been inclined to discuss it. It seems to me to give grounds for actually refusing to pass it without further consideration, because it is very doubtful whether anything should be done that would weaken the responsibility of an Executive Council in regard to matters of finance. It is certainly not contemplated in the Constitution that matters of finance shall be in the same position and shall be dealt with in the same way in the Dáil as ordinary matters of legislation. There is nothing in the ordinary way of legislation to prevent any Deputy under the Standing Orders bringing in any sort of measure. There is an express provision to prevent a Private Deputy of the Dáil bringing in a motion for the expenditure of money. There is special responsibility and special care and stewardship cast upon the Executive Council, both by the Standing Orders and the Constitution. Now, anything that would weaken that responsibility and make it possible for a play of forces in the Dáil, on the principle of mutual concessions and mutual support, to play with the finances of the country without responsibility, seems to me to be very undesirable. While I had really no feeling against the Order before Deputy FitzGibbon spoke I feel now that it is one that certainly ought not to be adopted without very serious consideration indeed.

AN CEANN COMHAIRLE: I think I am interpreting the feelings of the Committee correctly when I say that what the Committee wanted was to find some alter-

[An Ceann Comhairle.]
 native for the method in England of moving that the Minister's salary be reduced. Under the Constitution here you cannot move that a Minister's salary be reduced, and I think if the Minister for Local Government would suggest an alternative which would be in accordance with the Constitution and which would enable the Committee on Finance to discuss the general policy of a Department on some definite motion or amendment, that it would meet the views of all parties. It was exactly because it was not possible to follow the procedure of moving to reduce the salary of a Minister that the Committee cast round for some such form as this. If any form were suggested which would accomplish the end of enabling Deputies in Committee to challenge by a motion the whole policy of a Department I think that would solve the difficulty. That is all that was in it at the Committee.

Mr. BLYTHE: Two totally different interpretations of this Order have been put before us. It seems to me that if you leave out anything about recommendation there is less possibility of it being used in such a way as to defeat the provisions of the Constitution or to get round them.

AN CEANN COMHAIRLE: What are the two interpretations?

Mr. BLYTHE: There is the interpretation that it is for the purpose really of having finance dealt with by the Dáil in precisely the same way, or very nearly the same way, as ordinary legislation, and there is the other interpretation, that it is simply to take the place of a motion to reduce a Minister's salary.

Mr. JOHNSON: It seems to me, if this Order were passed we should be in this position. If there were a definite opposition challenge to the Ministry the motion would be to reduce the estimate. That would be the means of challenging the Ministry, of deciding that the Ministry had not the confidence of the Dáil in that particular respect. But if there was no desire to challenge the Ministry in that emphatic sense, but only to criticise and suggest changes—such changes being possibly accepted, possibly resisted; if resisted the Ministry could take it as a vote of no confidence—surely it is possible that the Ministry may be effected by the sense of the Dáil in regard to the financial

provisions for the succeeding year, that a larger sum might be desirable. They might include that in those estimates rather than bring forward a supplementary estimate. If they were influenced by the arguments of the Dáil to reconsider the Vote it would preclude any possibility of feeling that it is a Vote of no confidence and enable them, as Deputy FitzGibbon says, to accept a criticism of the Dáil in regard to a particular Department, or one section of a particular Department's work. The proposition here "with or without a specific recommendation," does allow Deputies who want to raise a point to raise it in respect of a specific part of the work of a Department. I think that is desirable because it helps to confine the debate to that part of the Department's work. If there is no specific recommendation in the motion for referring back, then the whole of the Department's work may be discussed under the Vote. There are two propositions: to discuss the whole of the Department's work without a motion to reduce and to discuss a specific portion of the Department's work, thereby confining the discussion to that portion. I think that the method adopted here does rather favour the position that the Minister for Local Government has taken up in favour of fixing the Ministerial responsibility, because if there was a desire to vote no confidence in the financial policy of a Department the motion would be to reduce the estimate. This is of a different character and, therefore, simply enables the Dáil to express itself in a general way without any attempt to condemn the Department's work.

Mr. FITZGIBBON: We have had instances of almost every one of these things within the last few days, particularly because we are in a different position here on account of the peculiar sanctity attached to the Executive Council. They of course, stand or fall as a whole, but then there are the outside Ministers who have more or less control of their own Departments. When we were dealing with the Ministry of Fisheries, which I think is one of the Departments that is not attached to the Executive, Deputy McBride on the estimates raised a question as to the inadequate provision of protection for the fishermen on the Western Coast. If we had this Standing Order it would be open to refer back the estimate with the recommendation to the Minister

that he should endeavour to provide protection for the fisheries on the Western Coast. He would then go back and would return here with the estimate in two or three days and he would say one thing or the other: either that he had got provision in his new estimate or that the Minister for Finance refused to provide the necessary money. Then you would have the issue knit at once as to whether there would be a vote of no confidence in the Government or not, because you would then get to a question of finance, and the Government would say "this is money we cannot produce." On that estimate you would get a decision as to whether the policy of the Executive was or was not to prevail. They would have the full support of all members of the Dáil who desired to maintain the Government as a whole in office and the question of the recommendation would be withdrawn. If it was intended to go on and defeat the Ministry and put them out as a whole, you could come to an issue on that, and they would be put out. It does seem to me that while we have a division of Ministries into two classes—those who are on the Executive Council with collective responsibility and those not on the Executive Council but who are responsible for their own Departments—it is desirable that some form of recommendation should be available in the case of those Ministers who do not stand or fall with the Executive, and who run their own Departments, and that the will of the Dáil should be capable of being manifested in some such form as this Standing Order suggests.

Mr. BLYTHE: It is really clear to me that this matter is deserving of a good deal more consideration than it has got, and Deputy FitzGibbon has convinced me that the Order should not be adopted. If it works out in any way such as he suggests, it would give people, other than Ministers, the means of proposing a Money Vote. It would work out virtually in that way. Take the case of the Minister for Fisheries. His estimate is sent back with a recommendation that more money be provided for some particular object. That is an indirect way of forcing the hands of the Executive Council. It is all very well for the Executive Council to say that money can be or cannot be afforded for a certain thing before the Dáil has expressed its opinion,

but when the Dáil has expressed its opinion that such money should be found, the position of the Executive Council is very greatly prejudiced in saying that it cannot be found. I think that would be a most undesirable procedure. Either, it would mean that the Executive Council would have to make it a case of confidence in the first instance and resist any reference back of such an estimate with a recommendation, or else they would have simply to resign the immediate and direct responsibility they have over finance and that it was felt necessary when framing the Constitution to give them over finance. I do not know if something might not be drafted to meet what some people feel to be necessary to take the place of a motion to reduce a Minister's salary. I think it ought to be further considered.

AN CEANN COMHAIRLE: We were promised in the Committee the Government view on this point.

Mr. FITZGIBBON: If it would be any assistance to delete the last words "with or without a specific recommendation" as far as I know the mind of the Committee they are quite prepared to accept that. Their main object was to get some means to discuss estimates, without being deprived of the means of reducing a Minister's salary.

Mr. JOHNSON: I agree that if there is any strong opposition to the last sentence, and if it is felt that it raises Constitutional questions, we might delete it for the time being and see what a year might do. In my opinion the Minister for Local Government is a year too late. He should have raised that question when we were dealing with External Ministers. His opposition to paragraph 2 is really opposition to the idea of the External Ministers. It is opposition to the idea of the Dáil having control of the Ministers. It is practically an assertion that the whole of the Ministry, whether Executive or not, must stand or fall together. It is a denial of the Clause in the Constitution which appoints External Ministers. It is, Deputy Figgis will be proud to know, a rally of the Minister for Local Government to his banner.

Mr. DARRELL FIGGIS: Deputy Johnson means that Deputy Figgis's prophecies have proved correct?

Mr. JOHNSON: I did not mean that

[Mr. Johnson.] at all. I mean that the proposition in this Order is consistent with the Constitution and is a means of carrying out the Constitution within the Dáil. The opposition to it from the Minister for Local Government is opposition to this Clause in the Constitution. I do not think the last few words will make any very material difference. I think the Section is better with them but I have no objection to delete them.

AN CEANN COMHAIRLE: The Minister for Local Government might be eased by the last Order in our Standing Orders:—"These Standing Orders may be amended on the motion of any Teachtaí." If we adopt Number 2 in its present form or in an amended form the Minister can propose an amendment subsequently after he has had time to consider the wording.

The PRESIDENT: I think there must be, at least, some opportunity for the Dáil to express its views on an estimate and I think that is more or less reasonable. A point I would like to understand about this matter is: is it a recommendation for further information, or is it to be looked upon as a vote of want of confidence? I take it that it is not a vote of want of confidence.

Mr. FITZGIBBON: The Committee never dreant of that.

Mr. JOHNSON: To avoid it.

The PRESIDENT: I take it that we will have to have something in the nature of a motion of want of confidence, and it might be that some of these Standing Orders might be so interpreted. I see no objection to it, if it be simply to put back an estimate for further information or for further consideration. If the Dáil does not approve of the policy of a Minister I think it is reasonable, and that there is no great danger in it. What I do see dangerous is this: if the Minister for Fisheries put up an estimate for x£ and it came before the Dáil, and that the Dáil was of opinion that a sum of x cubed pounds should be spent, and that in the particular year in which the Dáil made that recommendation the cost of that service would disturb the balance between receipts and expenditure, then it would be a bad recommendation. It would unbalance the receipts and expenditure. To that extent, I think there would be weakness. I am half inclined to think

that the Minister's interpretation of it was that it would be a vote of want of confidence rather than what the Committee's intention was, to get more information or to influence to some extent the Minister's policy. Personally I prefer a little flexibility with regard to recommendations, so that when Minister's recommendations come forward they would not be the last word and might be rejected if the Dáil did not agree with them. As long as it is clear that a motion should come forward for a vote of want of confidence, and that this does not mean that, I see no objection.

Mr. FITZGIBBON: Our whole object was to avoid the use of words which could be considered as meaning a want of confidence. If you want a vote of want of confidence you must do it in a specific way. If the word "recommendation" is wrong, and if any other word can be suggested that is less strong I think the Committee will be anxious to put it in. It was not our desire that the Committee when dealing with an estimate should dictate in any way to the Minister in charge of it. It was rather that they should seek for information and put forward suggestions. If the word "suggestion" is preferred to "recommendation" I think it would meet the views of the Committee.

Mr. JOHNSON: Perhaps an instance might be given. Last week there was a discussion on the Education estimates. The form it took was to refer back for reconsideration and the subject matter discussed on that proposition was the position of Secondary teachers. The matter was discussed and the Minister did not make it as he might have done a vote of confidence. As a matter of fact he made a statement which led to the withdrawal of the motion. It was satisfactory. The alternative proposal would be, if something like this did not appear, to move the rejection of the Vote. That would be taken as a vote of no confidence.

But supposing the case arose that the Minister for Local Government, or the President makes: that an External Minister proposes an Estimate, and Deputies specially interested in that Department propose a reference back with a recommendation, it is within the province of the Minister for Finance, or of a member of the Executive Council,

to say that this matter immediately raises a matter of Executive policy, and the vote in these circumstances immediately becomes a vote of no confidence. Then the whole issue is changed. But, without any such motion, the desire to refer back is wholly and solely intended to avoid the necessity for that vote of no confidence. It is something which is very much in the category of "the previous question" that we discussed. We do not want the motion to be construed into a vote of no confidence, or to raise the issue that the Executive would stand or fall by it. It is put forward in this manner by way of having a general discussion, and of allowing an opportunity to the Dáil to express an opinion on the general question or the question of the administration of the Department. It is, as a matter of fact, our desire to meet the points that have been raised. We do not want to have occasions periodically through a Session when there may have to be changes in the Ministry every year because the Ministry was going to stand or fall by a particular vote, or that the Dáil must not express any view upon a particular item because it may mean the fall of the Government. The whole intention is that we want to make it possible for the Government to continue in office, and to be responsive to the wishes of the Dáil.

AN CEANN COMHAIRLE: Perhaps it would be possible to adopt it in some other form. If the form is not the one desired an amendment can be moved before the Standing Orders are finally adopted.

Mr. BLYTHE: The referring back of the recommendation at any rate avoids the Dáil being committed to increased expenditure. The referring back in the case of an External Minister is a different question to a recommendation for an increase, because that can only be dealt with, either as a vote of no confidence, or else the Executive must yield. It has a particular responsibility of knowing the Dáil's view in advance.

AN CEANN COMHAIRLE: It is agreed to delete all the words after "re-consideration."

Mr. JOHNSON: I am agreeable.

AN CEANN COMHAIRLE: The Standing Order will then read as follows:—"It shall be in order before entering on

the discussion of the items in a Vote to move that the Estimates in question be referred back to the Minister in charge of the Department for reconsideration."

Question put, and agreed to.

GROUP (E): ISSUE OF WRITS FOR CASUAL VACANCIES.

1. A motion may be made, after notice, directing the Ceann Comhairle to direct the issue of a writ for the election of a Teachta to fill any vacancy that may occur from time to time. Such a motion shall be made after Questions and before taking up the consideration of any other business on the Order Paper.

2. The Clerk of the Dáil shall make a Report on the issue of every such writ, giving the name of the Returning Officer to whom, and the Constituency in respect of which, such writ was issued, and stating the date of issue.

3. On the receipt of the return to the writ the Clerk shall announce the name of the Teachta elected. A copy of the writ with the return endorsed thereon shall be laid upon the Table by the Clerk.

Mr. FITZGIBBON: I move the adoption of these new Standing Orders.

Mr. DARRELL FIGGIS: With regard to Number 1, I take it that this motion must be carried by a majority of the Dáil, or does it mean that a motion automatically made to the Ceann Comhairle is accepted and acted upon by him?

AN CEANN COMHAIRLE: The word "motion" has the meaning of the word "motion" throughout the Standing Orders.

Mr. DARRELL FIGGIS: Therefore, if a majority of this Dáil, or of any subsequent Dáil, wishes to keep back a certain election, it has the power to do so, if it so wishes. It might in conceivable circumstances at some future time wish to take action that would practically mean the disfranchising of a constituency. Is it desirable, under the Constitution, for Parliament to have that right in a particular case, or should it not be the case that the procedure should be automatic for the filling of a vacancy?

AN CEANN COMHAIRLE: This is the procedure under the Electoral Act, and we cannot alter that.

The PRESIDENT: Even the Constitution is at the mercy of majorities.

Mr. DARRELL FIGGIS: So we have discovered.

Question put and agreed to.

B.—PROPOSED AMENDMENTS TO EXISTING STANDING ORDERS.

Mr. FITZGIBBON: I beg to move amendment number 1, to delete in Order number 1, the words "or Director of a Department."

Amendment put, and agreed to.

Mr. FITZGIBBON: I beg to move amendment number 2, to delete in Order number 3, the sentence "In the case of the absence of the Ceann Comhairle and the Leas-Ceann Comhairle the Dáil may, on motion made without notice, appoint a Teachta to act as Ceann Comhairle for the time being."

Amendment put, and agreed to.

Mr. FITZGIBBON: The next amendment is—In Standing Order No. 10 to delete the words—"but the Dáil shall not divide on any question after 8.30 p.m." The Standing Order provides that if there is a discussion on the motion for the adjournment of the Dáil it can last up to 9 o'clock but that no division can take place after 8.30.

AN CEANN COMHAIRLE: There has been a recent incident which I think rather alters that. Under the existing Standing Orders notice must be given to raise a matter on the adjournment and it may be discussed for half an hour but the Dáil shall not divide on any question after 8.30 p.m. Another order prescribes that without notice a Motion may be moved before 6.30 that the Dáil sit later than 8.30 p.m., and I was asked recently, when a Motion of that kind was made, to declare under the Standing Orders whether a division could be taken later than 8.30. I ruled that it could, because if it is possible to make a Motion to sit later than 8.30, it ought to be possible to transact business after 8.30 and that might mean taking a division.

The PRESIDENT: I think the question that a division should be taken after 8.30 ought not to be pressed. Of course the Dáil could suspend any or all the Standing Orders, but I put it to private members that when questions are raised

on the adjournment—there may be a heated discussion or there may be an ordinary discussion—usually such questions are raised without much notice. Let us take it that there is a disturbance in a certain part of the country; Deputies say that the Executive or officers of the Executive or some persons employed by the Executive did not do their duty, and the question is raised. Now if you are to divide after 8.30 the question is whether or not you could beat the Ministry—it comes to that—and the Ministry regard it as that, and the man aggrieved regards it in the same way; whereas if there is to be no division the question is raised and persons can be reprimanded. The Executive may not perhaps give all the satisfaction the Deputy wishes, but the Deputy may say that at least he has impressed upon the Executive the necessity of dealing with the case and it will be dealt with. Now this Dáil is free from a good deal of the carping criticism that distinguishes other assemblies both in this country and in others, and to that extent there has not been any attempt to score. Now, if a Deputy raises a question which the Executive is not able to meet fully, and there is a division upon it, the Executive will naturally get a majority against that particular Deputy and then there is no reason for the Executive meeting it in any way, and I do not think that if questions are raised upon the adjournment and a possible vote taken, the private member will find himself in any better position than he is at present. I do not think it is wise to alter that particular Standing Order just at the moment because I regard it as a certain sort of safety valve.

AN CEANN COMHAIRLE: I am not quite sure but I do not think that was intended.

Mr. JOHNSON: This proposal was made some time ago to avoid tightening up too much the Ceann Comhairle. If a motion to take a vote occurred at 8.29 p.m., that is to say, supposing the discussion closed at 8.29 or was on the point of closing at 8.30, it was thought that no division could be taken owing to the Standing Order, and it was in view of the possibility of that, that the Committee decided that this provision that no vote should be taken after 8.30, should be deleted.

Mr. FITZGIBBON: It was not our intention to provide that a division should be taken upon a motion brought forward on the adjournment. It was intended that when a motion for the adjournment of the Dáil was taken, any Teachta could raise a question of which he had given notice, but it was not intended to provide that a division could be taken upon that motion. The object of the Committee was exactly as stated by Deputy Johnson, that is, to enable a division to be taken just on the point of 8.30 or at 8.30.

Mr. JOHNSON: As a matter of fact a discussion on the adjournment is not a motion and no vote could be taken upon it.

Mr. DARRELL FIGGIS: May I suggest to meet the President's point that the matter could be safeguarded by these words "that the Dáil shall not divide on any question after the motion for the adjournment had been made."

AN CEANN COMHAIRLE: That is an excellent suggestion:—"that the Dáil shall not divide on any question after a motion for the adjournment has been made"; that would absolutely get over the case.

Amendment, as amended, agreed to.

Mr. FITZGIBBON: I think that amendment No. 4 in Order No. 11, line 6, to substitute for the word "Ministry" the words "a member of the Executive Council" is simple and needs no discussion.

Amendment No. 5, which is, in Order No. 12, last line, to substitute the word "made" for the word "discussed" is also a simple matter.

Amendments agreed to.

Amendments No. 6 in Order No. 33, line 4, to delete the word "the" and the words "of Dáil Eireann."

No. 7.—In Order No. 40 (1), in line 10, to add the words "or amendments" after the word "amendment."

No. 8, to delete Order No. 48 as it is provided for elsewhere.

No. 9, to delete Order No. 60 as it is provided for in the last sentence of Order 65.

No. 10, Order No. 63, to delete the words "or other officers."

No. 11, Order No. 70, to be put into section dealing with Committees, were agreed to.

Mr. FITZGIBBON: I beg to move amendment No. 12, Order No. 72, to read:

"In considering a Bill a Special Committee may, at any time, adjourn, and the Dáil sitting in Committee may at any time, report progress, provided that a motion to this effect has been carried. Any such motion which is deemed by the Chairman to be dilatory or obstructive shall not be accepted. The consideration of the.....have been considered."

AN CEANN COMHAIRLE: That point arose recently on a question to report progress. This amendment really amounts to leaving it to the discretion of the Chair as to when he will accept a motion to report Progress and how often. During the all night sitting we had one such motion at 12 o'clock and another one was refused about 3 a.m. and one was accepted at 6 by the Chair.

Amendment agreed.

Mr. FITZGIBBON: I move amendment 13—Order No. 76, to insert after the word "moved" the words "after notice given."

AN CEANN COMHAIRLE: The procedure heretofore has been that no notice has been required for the Fifth Stage of a Bill. This Standing Order prescribes notice. While no notice was required and no suspension of Standing Orders, what has always been required is a general consent to move the two Stages of the Bill at the one time. So this change makes no difference.

Mr. JOHNSON: May I ask you to come back to Amendment 12 and see how this Order No. 72 will read. The original Section reads "the consideration of the Preamble to a Bill in Committee may be deferred until the clauses have been considered." I think the intention was that the consideration of the Preamble and Title of a Bill in Committee would be deferred until the clauses had been considered. What is the final decision?

AN CEANN COMHAIRLE: I do not know exactly what this blank means. I think it should be "the consideration of the Preamble and Title of a Bill in Committee shall be deferred until the clauses have been considered."

Mr. JOHNSON: If it is I am satisfied.

Mr. FITZGIBBON: I think it is.

Mr. JOHNSON: Seventy-three of the Old Orders was intended to be included I think.

Mr. FITZGIBBON: Seventy-three actually provides for dealing with the Preamble.

AN CEANN COMHAIRLE: That I think is the form we were dealing with.

Mr. FITZGIBBON: Yes.

Amendment agreed to.

Mr. FITZGIBBON: I move amendment 14, Order No. 82, to read "These Standing Orders may be amended at any time on Motion made after notice." The existing Order 82 was rather long and more cumbersome; it provided that after a motion was moved it would be subject to the conditions of Standing Orders 20, 12 and 54.

Amendment agreed to.

Mr. FITZGIBBON: I move amendment 15, Order No. 5, after the word "Eireann" on line 5 of the Order and before the word "fix" on line 6 to insert the words "and after consultation with the Cathaoirleach of Seanad Eireann."

AN CEANN COMHAIRLE: Under the Old Order the Ceann Comhairle was to fix the time for a joint sitting. The new Order prescribes that it shall be after consultation with the Cathaoirleach of the Seanad. It was agreed to by a joint Committee, our Committee on Procedure and the Seanad Standing Orders Committee.

Mr. FITZGIBBON: It is obviously desirable that the Presiding Officers of the two Houses should consult together because otherwise one might fix an hour without consulting the other which would be absolutely inconvenient or indeed impossible. This merely provides for settling it amongst themselves and then appointing an hour which is agreeable.

Amendment agreed to.

Mr. FITZGIBBON: I move amendment 16:—Order No. 8, to add after the first sentence of the Order the sentence: "The quorum for a Joint Sitting shall be thirty-two, but of this number neither House may be represented by less than ten members." The Order to continue: "The proceedings of every such Joint Sitting shall, save as otherwise pro-

vided in these Standing Orders, be governed. . . ."

That is to say in totting up the quorum there must be at least ten from each House.

AN CEANN COMHAIRLE: That was a very difficult question, the question of fixing a quorum for a joint sitting. This was a compromise between having twenty members of the Dáil and twelve members of the Seanad which are the respective quorums.

Amendment agreed to.

Mr. FITZGIBBON: I move amendment 17, Order No. 12, line 10, to add after the word "consider" the words "and report on."

Amendment agreed to.

Mr. FITZGIBBON: I move amendment 18: Where the context is suitable, to make use of the terms, "the Dáil" in reference to Dáil Eireann, "the Seanad" in reference to Seanad Eireann, and "Dáil Eireann sitting in Committee" in reference to Committee of the whole Dáil.

Amendment agreed to.

THE DAIL RESUMES.

Mr. FITZGIBBON: I move the adoption of the Report as amended.

AN CEANN COMHAIRLE: The motion is: "That the Committee's Report as amended in Committee be adopted.

Agreed.

PRIVILEGES OF DEPUTIES:

The PRESIDENT: I beg to move that the terms of reference of the Committee on Procedure be extended to include consideration of the privileges attaching to Deputies of Dáil Eireann. We have no Committee on Privileges and I think that the Committee on Procedure would do the work very well if they are willing to undertake it.

Mr. JOHNSON. I second that. As a matter of fact, I think it was understood in the beginning that the Committee on Procedure would undertake this work, but it was not exactly set forth.

AN CEANN COMHAIRLE: At the time of the original appointment of the Committee on Procedure, it is clear from the debate that there was an idea

in the minds of Deputies that it would act as a Committee on Privileges, but that was not included in the terms of reference.

Motion put and agreed to.

COMMITTEE ON FINANCE.

ESTIMATES FOR PUBLIC SERVICES —INTERMEDIATE EDUCATION.

(Debate Resumed).

Question again proposed: "That a sum not exceeding £62,750 be granted to complete the sum necessary to defray the charge which will come in course of payment during the year ending the 31st March, 1924, for expenditure in respect of Intermediate education, including the payment of teachers' salaries grants."

(£70,000 voted on account.)

MR. O'CONNELL: On the last day on which this Vote was under consideration, I moved that it be referred back, but in consequence of a statement made by the Minister for Education, I withdrew that motion. That statement was satisfactory, so far as it went, inasmuch as it contained a definite promise that further provision would be made to meet the claims of the secondary teachers. I would like, however, if the Minister would give us more detailed information with regard to the promise which he made. I would like, especially, a statement as to the particular form which this increased grant will take—whether it will be simply an increased interim grant, whether it will be made by means of grant, such as has been the case for the past few years, or whether he, in fact, proposes—as I sincerely hope he does—to provide a definite scale of salaries for these teachers. I am sure it will relieve the minds of those most interested if he is able to give the Dáil an outline of his intentions in that particular direction. During the course of the discussion the last day, some remarks were made as to the value which the country is getting for the money which it spends on education. It has become fashionable of late to say that the country is not getting value for the amount of money being spent on education. It is extremely difficult for even those who are most intimately connected with the administration of education to express an opinion on this question. Education is not like other services, in which the results are im-

mediately apparent. It may take years—and it does, as a matter of fact, take years—before the full effect of a particular system of education is shown. It is not when the boy is leaving school that the results of his education are apparent. That should be quite obvious to anybody who gives the matter a little thought. If people are not satisfied with the condition of education in the country at the moment, I would like that they would remember that they are getting now the results of the policy that was carried out ten or fifteen years ago in educational matters, when the provision made for education was very much less indeed than what is made now. The Minister for Education himself, on a former occasion, made it quite clear that it is not this year or next year, but in six, or seven, or ten years hence we will be in a position to say whether or not the country is getting value for the money now being spent on education.

Deputy Gorey, in his statements with regard to the position of the particular teachers referred to in this Estimate, suggested the policy of what somebody called "Robbing Peter to pay Paul." Deputy Gorey would not be so free, I suppose, in applying that same policy if Peter happened to be a farmer and Paul happened to be a labourer. He would not propose that those who had a small share of land should be provided for by taking a share from those who had a larger amount. I do not want to deal with many of the points raised by Deputy Gorey in that debate, because, like a good deal of what the Deputy says when he deals with matters of this kind, I think they were more or less irrelevant to the particular question at issue. I do, however, deprecate the statements made and the distinctions which were attempted to be drawn between one particular type of education and another. I have protested on many occasions—I think those who spoke from the other side of the Chamber, and the Minister for Education especially, generally agreed with my statements in that direction—that it was wrong to make distinctions as between what was called primary and what was called secondary education. It is quite impossible to make any such distinction and it follows that it is equally impossible to make any distinction or to draw any comparison as between the work done by a particular class of teacher

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and the work done by another particular class of teacher. The work done in the primary schools is not, as one Deputy stated, less onerous or less important than work done in the secondary schools. As far as the question of importance is concerned, if a comparison were to be made, it might be pointed out that, inasmuch as the great majority of our children never go to any other school than the primary school, and never have any other education provided for them, it is of the highest importance that their education in that department should be of the highest quality possible. But I deprecate any such distinctions. I do hope that this is the last time that we will have two distinct votes—one for primary and one for secondary education. I hope that when the Minister comes before the Dáil again to ask for an Estimate of this nature, that he will ask for an Education Vote which will include all the various types of departments and schools for which provision should be made—not alone so-called primary and so-called secondary schools, but also technical schools, industrial schools, and schools for defective children, and all the various types of schools that are thought to be essential to the carrying on of the work of education in the country.

Mr. JOHNSON: There is one thought I would like to give expression to, and it follows upon the statement of the Minister for Education himself. He pointed to the fact that private bequests to education had not been the fashion of recent years, or perhaps of recent generations, and he urged that it might well be considered by those who are thinking of departing this life that in their wills they should take note of the needs of education and make provision accordingly. It would be a pleasant speculation, no doubt, to enquire into the causes of that change in the habits and thoughts of the rich. But I suppose one may say with truth, whatever the causes may be, that for a generation or so past people have come to think of the provision of education as being a communal responsibility, and that because of the very necessity for a general diffusion of education for the whole population that the responsibility ought to be a common and not an individual one. When bequests for education were general, the proportion of the population that had

anything like an education, or that were considered to be fit for an education, was comparatively small; and I think it is one of the items that may count to the credit of modern society that there has been a recognition of the need for a minimum of education for every citizen. I suppose in the heyday of the mediæval period it was not very common for every peasant to have a literary education, and I think some advantage is gained by the fact that the public have come to consider that a general diffusion of education is desirable and necessary, and as a consequence the trend of thought has been towards making the nation generally responsible for providing the means for education, and not relying upon private bequests. It occurred to me when the Minister was speaking that in the absence of that practice of making private bequests for education in the wills of the wealthy a device has been invented which he might take advantage of. I suppose it is the practice of the Minister for Finance to take credit for Death Duties and to collect those duties. I suggest to him that he might enter into a compact with the Minister for Finance and, even at the cost of increasing those Death Duties, he might arrange for ear-marking such a proportion as he thinks the rich ought to provide for educational purposes. He might earmark that proportion of Death Duties for educational purposes. Then his public object would be achieved, even though the private benefactor may not obtain the pleasure that writing a will bequeathing certain sums for education might provide him with. The end would be obtained perhaps, though the means might be different. I commend that suggestion to the Minister, and hope that he will succeed in persuading the Minister for Finance to act in that direction.

Professor MacNEILL: With regard to the point raised by Deputy O'Connell, it is not my intention to propose at this particular stage a definite scale of remuneration for secondary teachers. What I did hold out was an improvement of the grant or grants in aid of the remuneration of the secondary teacher. The other question of setting up a definite scale for the remuneration will have to await some more fully considered measure than the bringing forward of this addition to the amount already proposed in the Estimate.

Mr. O'CONNELL: Would it be in order to ask the Minister if his proposal is retrospective as from any period? Does it mean an improvement of the amount given by way of interim grant set forth in this Estimate?

Professor MacNEILL: I hope that the definite announcement of this, as it deals really with a money grant, will be made in due form by the Minister for Finance. With regard to the other point raised, I am glad to see that Deputy Johnson does not misunderstand me, as I have been misunderstood, through the indistinctness of my voice, by persons in other quarters, as having suggested that the improvement of the position of secondary teachers should be cast on private benevolence. I never suggested anything of the kind. I think, however, the Deputy's rather historical sketch on that subject is not quite accurate. If you go back to the Middle Ages to which he referred, I think you will find that very few of the great and the wealthy, who represented the rich of the present day, were able to write their names. They were not educated at all, and they did not think of education; and the foundations, the endowments made by benevolence in those times went mainly to the education of the poor. Nearly all the celebrated names of educated men which have come down from the Middle Ages to this enlightened and industrial age in which we live ourselves, are men without family history, men whose history began with themselves, the children, for the most part, of poor men.

Mr. JOHNSON: Will the Minister inform us, as the matter is very interesting, whether the education given to these persons was very widely diffused? Was it general, or was it selected youths that were taken?

Professor MacNEILL: I think it was not so widely diffused. The idea of universal education did not exist at that time. At all events it was not carried out. It was more or less a matter of accident of locality, and so on, what particular number or section of the public these benefits reached. No doubt we have come to a time when it is accepted among all countries and among all peoples that education up to a certain stage, or an uncertain stage, should be made universal; and when we accept an idea like that it

is necessary for us to avoid confusion and to suppose that education has ceased to be an individual duty because it is placed on a communal basis. That, at all events, is an idea to which I find myself radically and incontrovertibly opposed. I hope to see, in the future that we have to look forward to, the responsibilities of the individual in education very much more recognised than they have been in the recent past. One thing more I add. I take this opportunity of adding that I hope to see the activity of the State, and especially the controlling activity of the State, in these matters at all times kept to the necessary minimum. I do not know that there is anything that I have to add. As I said at the commencement of my remarks, the actual proposal in due order to provide for the increase, in whatever form it will take, must come before you in due course from the proper quarter.

Mr. ALTON: I hope the Minister will look into the regulations governing the distribution of these grants. I have reason to believe that they are regarded by some teachers as unsatisfactory. They largely depend on conditions over which the teacher himself has no control.

Professor MacNEILL: I shall be glad to receive any representations from teachers or from any quarter that would have the effect of improving the regulations for the distribution of this money.

Motion put and agreed to.

UNIVERSITIES AND COLLEGES.

The PRESIDENT: I move No. 53. Universities and Colleges: "That a sum not exceeding £20,750 be granted to complete the sum necessary to defray the Charge which will come in course of payment during the Year ending the 31st day of March, 1924, for Grants in Aid of the Expenses of University Institutions, including Grants under The Irish Universities Act, 1908."

Professor MAGENNIS: It is somewhat unfortunate that Estimates of such surpassing importance as these should come before a jaded Dáil of some twenty members. There are a great many very important questions, which I for one should be very glad to pass over, but it is utterly out of the question that they should go unnoticed in the present Debate. For me, as a representative of the National University,

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there are at least three outstanding questions of great importance, though not of equal importance. The first is the position of the National University, the second is the question of the building debt, now pressing heavily on University College, Dublin; and the third, last but not least, is the question of the remuneration of the staffs of the three constituent colleges of the University, the College in Dublin, the college in Cork, and the College in Galway. With your permission, I will deal first with the National University. It is not mentioned at all in the Estimates; no provision is made for it. Now, on all hands I find an extraordinary lack of knowledge as to what the nature of the National University as an Institution is, and what the relation is in which the constituent colleges stand to it. Many who read these Estimates come to the reading with the impression already formed that University College, Dublin, is the National University. Others speak to me about the position of the staffs in the University of Galway, and I know in Cork that 99, if not 100 per cent. of the citizens refer to the college there as the University. I think that, notwithstanding the lateness of the hour, it is right that I should indicate why the National University exists, and is left out of these Estimates, because the question has a very material bearing upon the second, and in comparison with it, the more important point, the building debt on University College, Dublin. Deputy Johnson spoke of the Middle Ages, and that rather gives me an excuse for going back a little into the earlier periods of history. An attempt was made to establish a University in Ireland for the Anglo-Irish as far back as the 14th century by the Archbishop of Dublin at that time. There had, as we know, been great Universities in the Gaelic period before the coming of the Norman, but it is a strange coincidence as regards the figure 4 in this history, that in the 14th century the attempt was made by Pope Sixtus IV. to set up a University here, just as Universities were set up by the Papacy in Scotland. Edward IV. attempted to create a University for the Norman settlers in Drogheda, and his attempt would have been successful but for the Wars of the Roses.

I mention this because I want to show history repeating itself as regards the building debt of University College, the effect of a great war to dissipate the efforts for the creation of Universities in Ireland. Owen Roe O'Neill, who was not only a great general but a statesman of very conspicuous ability, had a project for setting up four Universities in Ireland. There is the possibility of four Universities being set up in Ireland, as in Scotland, again; I do not want to go into contentious matters. Deputy Figgis draws my attention to the figure 4 on the Orders of the day. as a further item in this coincidence

Mr. FITZGIBBON: Four members for each University.

Professor MAGENNIS: It used to be. The college of the Holy and Undivided Trinity was founded by Queen Elizabeth and an amended Charter was given by Charles I. That became modern history when the attempt was made by Mr. Bryce, as Chief Secretary for Ireland, to meet the demands for higher education on the part of Catholics by setting up what appears to have been contemplated by King Charles, a second College in the University of Dublin. This became a problem of living interest only a few years ago. There were advocates for Mr. Bryce's schemes, which the late Professor Mahaffy, afterwards Provost of Trinity College, always denounced as the sprawling University system that is known as the Federal University system. According to Mr. Bryce's scheme, Trinity College and the Queen's College in Belfast, the Queen's College in Cork, and the Queen's College in Galway, and the new College to be created for Catholics in Dublin, notwithstanding the geographical distribution being so obviously against such a thing working academically with any good result, were all to constitute the one University. Fortunately for education and for Trinity College, not at all two antagonistic things by any means, Mr. Bryce's scheme was defeated; but what was hoped to emerge from it did not result, the second college in Dublin University. We had always asked on behalf of Catholics for a College with University powers similar to Trinity College. The result of our agitation was that the Presbyterians of Ulster got a College with University powers, although

they had protested they wanted no change, and the sprawling university was created for the Catholic majority. The federal system was set up for us, with the result that we have the National University which is really constituted by the old Queen's College, Cork, renamed the University College, Cork, also the Queen's College of Galway, renamed the University College, Galway, and the new College set up in Dublin, University College, Dublin. In addition there is the college of St. Patrick's Maynooth, which the Dublin College recognises so as to bring it within the scope, partially however, of the University work. The National University is a sort of clearing house, if I might borrow the expression from banking, for those constituent colleges, but there is this obligation that the degrees for which all or most of the lectures in the constituent colleges are preparatory are degrees of the University—the examinations for degrees are University examinations and are conducted in each constituent college by the Professors of the college.

Now, the endowment of the National University was nearly £10,000, and the Charter of the University imposes on it, as regards its examinations for Degrees and University distinctions, that for every examination in every subject included in a Degree Course there should be employed an external examiner. The result is that while it imposes a heavy financial burden upon the very limited resources of the University, it at the same time, I must admit, has raised the value of the College universally, and the Degrees of the University, because—and this holds good, not merely in Medicine, but in all the Faculties—only the most distinguished scholars, sometimes from Trinity College, sometimes from other Colleges or Universities of the same standing in Great Britain, are engaged for the work. I brought the figures with regard to this because, after all, it comes down to figures in the end, no matter how interesting the past history may be. The endowment of the National University is £10,000 a year. The cost of fees for external examiners was £4,428 last year; in round figures one might say £5,000.

There is another limitation, if I may call it so, imposed by a Statute upon the University. No programme of studies, no course for examination, no arrangements whatsoever bearing upon examina-

tion, can be made by the Senate, which is the Governing body of the University, until reports have been received, first from the Academic Councils of each constituent College, and then from a body called the Board of Studies. Now this Board of Studies is a little Parliament. In point of members and representative character it represents the Academic Councils of the Constituent Colleges. Travelling and hotel expenses have to be paid for the members of the Board of Studies when they carry out their work in Dublin as a University Faculty Committee, and the cost last year for the travelling and hotel expenses of provincial Senators and members of the Board of Studies was £1,076. Then the printing of examination papers was over £2,000. You will not be surprised when I add to these figures a statement of the amount of the overdraft of the University at the Bank. The overdraft has been steadily increasing, and it stands at the figure of £7,000.

That is the position of the National University of Ireland, with an endowment of £10,000, with a duty imposed on it by its Charter of employing the highest scholars—and consequently at the highest rates that rule in academic circles—and with the charge of providing for the examination work of all the Constituent Colleges. It is in debt, and it cannot possibly get out of debt by any contrivance whatsoever. In the Estimates for University Education it does not appear at all. I am glad to see Dublin University or Trinity College has not been treated with that neglect. Only a few weeks ago the Minister for Finance came to the rescue, in a small measure, no doubt, of Dublin University by transferring to it the fruit of a sum which had accumulated under the Land Act and which had been originally provided to free it from whatever losses might accrue through depreciation in its properties and land in Ireland. It has got a small Vote in addition in those Estimates. I remember, when the Land Bill was introduced, Deputy Thrift made a hurried calculation that the effect of it upon the Institution, which is honoured by having him as one of its representatives, would lose some £5,000 a year. The representatives of our University are not terrified by the passing of Land Acts. We have no land; we have no accumulated capital. That holds good more particularly of the

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new college which was created in Dublin. We began at zero. We had no land, no buildings, no equipment, nothing only the annual grant, and we are to compete in friendly rivalry with an Institution that goes back to the days of Elizabeth, with a rich foundation, and an accumulated capital that some of us calculate—though I am sure it will be contested—as worth over £300,000 or something like £350,000.

So much for the University. That University is of the federal type, and it is notorious to anyone acquainted with the history of University development that the federal University has always been a sort of cocoon arrangement out of which should develop newer University Institutions. In recent years in Great Britain you have seen developed what are called the Civic Universities. You have University Institutions in Leeds, Liverpool, Manchester, Birmingham, Sheffield and Bristol, of the same type as University College, Dublin. Some of these merged from being constituent Colleges of a common University. That was the incubated stage which they passed. It is common knowledge here that University College, Cork, has long aspired to become the University of Munster. Many of us who belong to the University College of Dublin would like to hasten the day of that evolution. There is no more reason why Munster should not have a University of its own than that Manchester or Sheffield or Bristol should be provided with one. I notice the Minister for Finance smiles. The Minister for Finance is so pre-occupied with great questions of State that naturally he has not had time to give to the consideration of University development, and he has not had the opportunity, naturally, of seeing how much of late the truth has been borne in upon the British mind that it was the State devotion to the University development that almost gave the victory to Germany in the great war. John Bull woke up and realised that unless he devoted a large amount of his public treasure to the development of higher education, he would be beaten in the next encounter, beaten not in the field so much as beaten in the great war of commerce and industry and development upon every line of modern progress.

The PRESIDENT: Could you tell me where to get the money?

Professor MAGENNIS: I could if it were relevant, but for the moment I am merely the beggar-man. Afterwards, perhaps, I may suggest where the begging is to be done. Now, the building debt of University College is a war debt, and I must apologise for the almost sordid details, as they call them in the newspaper accounts, of domestic budgeting that only ends in bankruptcy. When the Irish University Act was passed creating University College, Dublin, a Constituent College of the National University and providing that the hitherto Queen's Colleges should likewise be Constituent Colleges of the Common University, a sum of £150,000—mark the munificence of this—was voted to building and equipping—not to build merely—the two new institutions. At the time, the College of Science and Government Buildings for housing the Department of Technical Education and Agriculture, were being put up at a cost of £450,000. For a University College and its proper equipment as a College to develop scientific study upon modern lines, a sum of £150,000 was provided. We had to divide that sum between the two institutions. I have tried to indicate the character of the University by speaking of it as a clearing house for the Colleges. £40,000 only was allotted for the purpose of the University. That left £110,000 for the building of the University College, in a year in which the University of Edinburgh was spending £200,000 on one chemical laboratory for four hundred students. The public in Ireland do not realise what it costs to build a modern laboratory. The equipment for electrical engineering in the building alongside of us—a building from which it could not be removed—represents more than a quarter of a million of money. The effort to remove it from where it now stands would, it is estimated, depreciate it by at least £30,000, and that is a very small estimate. It costs from £28,000 to £30,000 to equip one ordinary laboratory in the University of Berlin. What did we get along with our £110,000? In consideration of the £40,000 given for the building of a University building, which has never materialised, we were given the old premises in Earlsfort Terrace, which were erected in the 'sixties for Exhibition buildings. They blot the site. We were able to remove only portion of them. The remaining portion, which we could not

afford to remove, stands within twenty feet of our principal laboratories at the back of the new buildings in Earlsfort Terrace. They blot the light and the air and spoil the planning of any future developments, yet we cannot afford to take them away. There they are, an incubus.

It was not bad enough that we should have a site to clear and £110,000 with which to build a new University College. When we got out plans, conceived on a very moderate scale indeed with a view to what we thought would be the limit of our expansion educationally—a limit beyond which we have gone in recent years to an extent that none of us could have dreamed of—the Architect's plans for such a modest institution were such that it was calculated between £165,000 and £200,000 would be required. Whereupon we cut our coat according to our cloth. We arranged to build about £68,000 worth believing, as prices then were, that we could make some sort of equipment with the remaining portion of our £110,000. That stage was reached at a very unhappy moment when the great labour strikes of 1913 were raging in the City. We found it difficult to get the work proceeded with, and we had barely got portion of our building up when the great war of 1914 broke out. As many of you remember, there was emergency legislation introduced that allowed contractors to escape from their contracts if they were not able to carry them out without loss. We were put in this unhappy plight, that with a large part of one block of our buildings already erected but not roofed and the contractors demanding increased remuneration, and threatening—I use threatening not in any sense of finding fault with them; it is a shorthand phrase for what happened—to remove the great plant which it would cost enormous sums to take away, and more enormous sums to put back again, we had to agree to a new contract on much more onerous terms. To cut the thing short, the small portion of building that we have already erected has cost us up to the present £155,000. In that we have provided not one inch of space for anatomy, nor for the great sciences that underlie the science of medicine at the present hour, with the sole exception of the small laboratory for physiology. This is a thing which I am satisfied the public would not credit, that while those

charges for building increased, the British Treasury, that came to the rescue of similar institutions in England that were suffering material loss to recoup them for their losses, ordered us to supply the additional charges out of savings, if you please—out of economies from our endowment. The Minister for Education knows quite as well as I do how feasible it was to make economies out of the annual endowment for University College, Dublin. The Minister and I became colleagues in the University College at that period, and both of us were strongly of opinion—I do not know as regards the Minister, but I am still of the same opinion—that it was our duty to the people of Ireland to have proved up to the hilt the contention that we made at the time, that the endowment was so ludicrously meagre that it could not be worked with, and that our proper policy should have been to run the College straight into bankruptcy. However, I think we were a minority of two. What was the result? We paid our Assistant Professors year after year the munificent salaries of £180. There has been a good deal of talk here in the last few days—and I myself have joined in it—with regard to the remuneration of secondary teachers. But think of the position of Assistant Professors in the National Institution! University College supplies the educational need, not merely of the City and County of Dublin, but of a large area extending into Ulster and across the Midlands, even encroaching upon Munster itself. Our Professors were paid from the beginning on a lesser scale than the Professors in the College of Science. Those salaries we were told were only initial. Mr. Birrell said at the time that no doubt the endowment was insufficient. We were to show what we could do, and more money would be forthcoming. The first little increase we got was 10 years after the first institution of the new College, and then we got it through the Universities Grants Committee at a time when all the University Colleges in England and Scotland were having their condition inquired into and relief was being given to them. At the present time in Queen's University, Belfast, there are 18 whole-time Professors, and each of these has a salary of £900 or upwards. In the University of Liverpool the University Lecturer has £700 per year. I need hardly say that the

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National Institutions in Ireland have to be satisfied with far less. What is the result? Only men who, for patriotic or other motives, are devoted to work in Ireland, can be retained in the services of the College.

I mention that, in connection with the building debt on University College, to point out that we could not possibly, at a time when those of our Professors who were well enough off to have Life Insurance policies were selling them—two of my colleagues to my own knowledge were selling their furniture in order to meet their bills—come to the assistance of the building debt. Meanwhile, the Bank overdraft was piling up interest, and the Treasury callously told us that it had warned us if we went on with our building in the war period we should meet the extra cost ourselves. Had we done the other thing and left the College without a building, or the portion of the structure already erected to the mercy of the weather all these years, we should have been accused of wanton extravagance. We should have been told by the Minister for Finance, possibly, that we were bad business men. Now, the building debt on University College, at the present time, is between £20,000 and £30,000. I maintain, and my colleagues maintain, that that properly should be regarded as a war debt to be borne by the British Exchequer, and that in whatever settlement is being effected as a financial settlement between Great Britain and Ireland, it must be so dealt with by our representatives. We cannot carry on as a first-class institution as fully as we are in a capacity to do—except as regards limitation of material resources—with the building we have. It is utterly impossible. We have outgrown, even as regards the Departments to be housed, the existing buildings. I have some figures here which the College made out and presented to the Minister for Finance. In our first year we had a total of 530 students. At that period we looked forward to some day having 700 students. Then we had 695, 765, 888, 871, 939, 953, 1,017, 1,086, 1,147, 1,332, 1,317. The cost of running the College is particularly small. I think it necessary to inform the Minister for Finance and the Dáil of that fact. We have not been bad business men in the carrying on of the work of the College. If he compares the figures and the cost

per head per student of administration in Liverpool, Manchester, Birmingham, Leeds, Bristol, or even in the parsimoniously administered University Colleges of Oxford and Wales, he would find that ours is the most economical. Our administration costs £5 per head. The cost by way of salaries expended upon the teaching staffs runs up to £90 per student in some of the English Civic Universities. With us it is below £50. I do not like, as it is so late, to keep on with details on this question, and yet I feel that it is my duty, and one not to be shirked, to the University and to the Colleges to give the public some slight idea of what the financial position is.

Professors are supposed to be men with no needs, no ambitions, no place in life whatsoever, and that any sort of remuneration is good enough for them. That was not the idea in the great expanding countries of the Continent, and in the eastern side of the United States. Not by any means. We have in University College, Dublin, a staff of 53, full-time, that is, 33 full-time Professors, and a certain number of lecturers, and a certain number of assistants. During the great years of strain no bonus was paid to anyone in University College, Dublin, except to the laboratory porters and the women who sweep and wash the corridors. The Civil Service officials of high and low degree had received their third bonus before that little sum I speak of came to us through the Universities Grants Committee, when we had been working on our meagre endowment for fully ten years. We realised, as every institution did, that the pressure of the higher cost of living and depreciated value of money came more upon and was harder to endure by those in receipt of smaller salaries, and so we devoted our attention to raising the income of the assistants and lecturers. We have joined in the scheme which has been adopted in similar institutions in Great Britain as to the initial salary for assistants and for lecturers. Every Deputy here has received from University College, Galway, a printed document; and if he were to take the trouble to study it without relation, as it must be studied in relation, to the prevailing scales of remuneration elsewhere he might come to the conclusion that those men are paid abominably in University College, Galway, and University College, Cork, and that they were paid remarkably well in Uni-

versity College, Dublin. Now I have dwelt upon the wrongs of University College, Dublin, first, in order to put the thing in a better perspective. In these tabulated lists you are given in University College, Galway, three whose salaries do not exceed £300; one whose salary does not exceed £400, and these are the assistant lecturers. There are two lecturers in Galway who do not exceed £400; in University College, Cork, there are only two lecturers that are between £400 and £500. In University College, Cork, there is only one professor with between £300 and £400; two between £400 and £500; twelve between £600 and £700, and five that have over £800; these are in professional subjects. Now I have already dwelt upon the fact that University College, Galway, has always found it very difficult to retain the services, for more than a few years, of highly qualified men. University College, Galway, has been used merely as a stepping-stone for younger men on the road to advancement in the British or Dominion Universities. That is not good for education.

Now as regards the subject of science—those great agencies of modern expansion that are as necessary to the development of the country to-day as petrol is to the driving of a petrol-propelled engine. It is impossible to think that when a student in one of these institutions has obtained high university distinction and looks about him that he will refuse—say one of our chemists—that he will refuse the offer of a great steel manufacturer in Sheffield who desires his services and would say “No, I desire to give my best years in the service of my college on half or one-third of the income that I might derive elsewhere.” You will not get sacrifice of that type from more than a very infinitesimal fraction of the men brought up in the university colleges. Now the Minister says where is he to get the money. There is money for everything—millions of money to buy out the landlords and transfer the ownership to the tenants, which is a most admirable and commendable thing. There are millions of money for all sorts of services. But observe the symbol of the thing as here visibly before you to-night. It is the University Estimates that come last; always the University last. But in any other civilised country in the world the University comes first and as a prior charge. How are we, I ask this Dáil, to carry on University work year after

year with the public authorities telling us that we must be satisfied with the meagre endowment that we have and the wretched equipment; that there is no money for us? Money can be got; money would be got. I do not believe that the Irish people here or beyond the seas have any idea of the way in which their country's future is being defeated, unconsciously and unintentionally, but none the less genuinely, being defeated by the attitude taken up by those who ought to be interested in the educational expansion of the country. We spend nearly four millions a year on what is called public education. I would not propose to diminish that by one penny, but what I want to do is to get the public in Ireland to realise that they are going the wrong way about creating an educational organisation in this country. It is a fallacy that I encounter everywhere; I am tired dealing with it for the last 20 years. We are told about the foundations being laid, and the walls raised and the house roofed. That is the most misleading illustration or metaphor ever advanced. That is the order in which instruction is imparted to the child and the growing youth who get a certain initiation at the primary stage, as it is called. When he eventually reaches the University, if he does ever reach the University, the work there is to build upon the work done in the secondary and the other schools, and if that has been bad it is impossible for the University to do its work. But when we are creating an educational fabric for the nation we do not begin, no one would dream of beginning, at the lower stage. We begin with organising the University because from there must come the teachers and must come the influence that will create the programmes, courses, methods, and everything, in short, of policy in education. And here we are year after year listening to these—I will not use the adjective I was going to—wretched fallacies that we are doing great service to our people when we are providing them with a knowledge of the three R's. What we have stood for here is for the provision of education.

I shall, of course, be told, as it is the custom to tell a professor talking about any subject, that I am a visionary. But, there are visionaries who know nothing of the facts, and who have not made themselves acquainted, and are not in a position to make themselves acquainted,

[Professor Magennis.] with the facts of what is done for higher education in other countries. The Minister for Education, speaking on the Intermediate Estimates the other day, spoke of the pious founder. Look at what the pious founder has done in America! The John Hopkins University. Look at what the pious founder has done in our own day, and in the Minister's own lifetime, in Bristol, where Mr. Wills, the tobacco manufacturer, has given princely sums to convert what was a small College into a great Institution. But what happens in Ireland? A man is on his dying bed, trying to make his peace with God in his last hour, and is asked by those with some authority to leave his money to—what has been irreverently spoken of as fire insurance—paying his premium on his policy very late. But among all these charities there is never presented to him for his generosity the great nation-building charity of education. Why? Because it would never occur to anyone, except a professor perhaps, in this country that education was a charity, or that education was a great national concern, a thing of great national benefit and a great constructive force. I daresay it is the last time I shall ever speak here on these estimates, and perhaps that will be my excuse for being so long. I must say that I would have been much longer if I could have taken the opportunity of beginning earlier.

The PRESIDENT: I beg to move "That the Committee report Progress and ask leave to sit again to-morrow."

Agreed.

THE DAIL RESUMES.

Progress reported, the Committee to sit again on Wednesday, the 25th July.

QUESTION ON THE ADJOURNMENT.

UNTRIED PRISONERS AND THE FRANCHISE.

Mr. DOYLE: I beg to raise the question of which I have given notice. It is to propose that all political prisoners and internees be afforded an opportunity to vote at the coming elections. I raise this matter for two reasons. The first is, that I have been requested by a very influential body to bring this question

before the Dáil, a body that represents perhaps half the electorate of the country. That body is the Executive of the Irish Farmers' Union within the Saorstát, which met last week, and passed a resolution unanimously to that effect. The Executive demanded the right that all political prisoners, and those in internment camps, should be given the right to vote at the coming elections. The second reason is, that if those prisoners and internees are allowed to vote it will stop a lot of controversy, both before and after the election. We shall be told by many sections and many parties that if those internees and prisoners are not allowed to vote it will not be a free election. For that reason I would inpress upon the Government the necessity of granting to these people the right to vote. If they are given that right it will certainly have the effect of stopping a lot of talk afterwards. If they are allowed to vote, no one can gainsay the fact that the election was a free and unfettered one, whereas if they are deprived of the right to vote, that will be used as a handle by many sides and sections to declare that the election was not a free and an unfettered one. I do not want to labour the question but I just wish to put these two points before the Government in favour of their allowing all political prisoners and internees the right to vote at the coming election. We are not making a very large demand; we are not asking for any releases or anything of that sort, but simply the right for these people to vote at the coming elections. I suppose many of them are untried and uncharged prisoners, and hence I think they should be allowed the right to vote.

CATHAL O SEANAIN: Aontuighim le Teachta Ó Dúbhghaill. Is dóigh liom go mba mhaith leis an chuid is mó de na daoineibh san tír an guth a thabhairt do na daoine atá i bpriosúin. Is í mo thuairim-sa go ndéanfaid sé maitheas do'n Togha, agus nach ndéanfaid sé aon dochair do'n Stát, da mbeadh cead ag na fir atá sa phriosúin guth no bhóta a thabhairt. Is dócha go bhfuil naoi míle fear i bpriosúin. B'féidir go mbeidh cuid de na daoineibh seo ag teacht amach roimh lá an Togha. Mar sin féin, beidh leith-sgeul ag na daoine atá i n-agaídh an Rialtais agus deirfidh siad gur bhain an Rialtas an chirt seo ó na daoine atá i bpriosúin.

I should like to support the point of view put forward by Deputy Doyle. There is, so far as I can ascertain—and I have been to some pains to find out—a pretty general feeling in the country that prisoners and internees should be allowed to exercise their vote in the Election; that is of course those of them who have got votes. I do not suggest, and I do not think that Deputy Doyle suggests, that those who have not got votes should be allowed to exercise the right of voting. It is a desirable thing from every point of view that no excuse should be put in the hands of any section of people to create disturbance. It may be answered that the argument of an un-free election is all nonsense. On the other hand, depriving prisoners who have votes of the right of exercising them, will undoubtedly create a certain amount of bitter feeling, and feelings of bitterness have been dying down. We are accustomed to political somersaults of one kind or another—we have seen one or two within the last week—and should not be influenced by such things, but we should endeavour to take out of the hands of everybody the slightest excuse for disturbance at a time like this. Personally, I think that the number of prisoners who would be likely to exercise the vote would not be very great. Even if all the internees had votes and even if all of them exercised, or were allowed to exercise their votes, spread all over the country, they would not very materially affect the general issue of the election, or the issue in any particular Constituency. But the other and the bigger thing remains, that the giving of the right to exercise the vote would be a decent contribution to a clean, straight, open, and so far as it is possible in these times, peaceable Election. For that reason I support the point of view put forward by Deputy Doyle.

Mr. ALFRED BYRNE: I rise to support the case made by Deputy Doyle and Deputy O'Shannon. I certainly think the Government ought to do everything that lies in its power to see that when the elections are over, nobody will be in a position to say that they were unrepresentative, or that the Dáil then elected was unrepresentative as a result of the prisoners being deprived of their votes. I certainly think that the interned men should be allowed this right. There is

no Act so far that deprives interned, untried men of that right. Somebody might ask: How can they vote without getting out? Possibly some of them could vote on a temporary Postal Voters' List, prepared for this purpose. I make that suggestion to the Government. I do not think it is impossible. Therefore, I support the views put forward by the Deputies who have spoken, and I sincerely hope that by the time the elections are on, or if not, very shortly afterwards, the Government will find itself in the position that they will be able to say the condition of the country is such that they can release the majority of the prisoners.

Mr. JOHNSON: The statement by Deputy Byrne rather suggests difficulties. I see quite clearly that there will be no possibility of meeting the points that have been raised, which I support emphatically, except by a one-clause Bill putting internees in the same position as soldiers; but I suggest there is a very much better way to meet the grievances, and that is release; not to wait until after the Elections, but to release before the elections. I think the demand that is made for the right to exercise the vote, which they have been conceded in the Constitution and through the Electoral Law, is one that they are perfectly right in demanding, not as a privilege and not as a matter of mercy, but as a right that has been given to them and which has not been taken away by any proved act of an unlawful character. I do not suppose that one constituency would be affected by the results, very few at any rate. Nevertheless, if we are going to encourage the idea that the vote is a matter of importance to the voter, and that he should look upon the vote as something valuable, as symbolic of civic responsibility, then I think we should take this opportunity of adding to the force of that lesson. I think that the plea that is put forward by Deputy Doyle is a reasonable one. If men and women must be interned and continue to be interned over the Elections, then they should be granted the opportunity of exercising their right. If that can only be done by a Bill, then a Bill ought to be brought in, and they ought to be given the opportunity to exercise the franchise by post. A much better method of meeting this grievance is a very general release.

MINISTER FOR LOCAL GOVERNMENT (Mr. Blythe): This matter is not one of prime importance, and it is one which is at present being looked into. Deputy Doyle has said that he had two reasons for raising this matter. It seems to me, however, that his two reasons simply boil down into one. He says that he believes it would save controversy if some arrangement were made to enable the internees to vote, and that his Association thinks it would stop controversy. I think that is a bit optimistic. Some cause of complaint will be found by those people. Last year they made a great deal of fuss about the Register, although it was a sufficiently good Register to get the general opinion of the country. If arrangements are made for them to vote, no doubt they will complain that they were not allowed to speak to the people and to carry on their campaign, so that we will have the controversy anyhow. There is no question of depriving them of their right to vote. Those who are on the University Register and would normally vote on the postal register will certainly be allowed to vote, no matter what may eventually be done about the others. What is proposed actually is that we make special arrangements to allow those people to vote when otherwise they would not be allowed to vote by post. There is no real reason for that, except the desire to shut mouths. The ordinary prisoner who is convicted of a crime is not thereby disfranchised, unless it is an Electoral crime. But we do not put him on the Postal Voters List to enable him to vote. Even

in the case of a man who is remanded, and who may be found not guilty and discharged, there is no provision to enable him to vote by post. It comes down to a question of whether it is worth while trying to stop controversy. A Bill would have to be introduced, and I do not think that it could be so simple a Bill as Deputy Johnson suggests. We cannot put them in the same position as soldiers. We cannot allow them to choose the constituency in which they would be registered. It can only be given to people whose names were on the Register for their own area. It simply means that they be struck off there and be put on the absent voters' list in that constituency, and that they would vote in respect of the area in which they had been first registered. It would also be necessary to make some provision about the carrying on of the vote. The law and the Constitution provide that the vote be by secret ballot. Anybody who knows these camps knows that unless certain provisions were made the voting would be far from anything in the nature of a secret ballot. We know very well the bullying that goes on inside camps, and that there would be no freedom for the individual. Consequently it would be necessary to have a Bill that would be more complex and more extended in character than a simple one-clause Bill, putting the internees in the same position as soldiers. The matter is under consideration at the moment.

The Dáil adjourned at 8.45 p.m. until 3 o'clock on Wednesday, 25th instant.

DÁIL EIREANN.

DE CEADHAOIN, 25ADH IUL, 1923.

(Wednesday, 25th July, 1923.)

Cromadh ar obair an lae ar a 3.15 p.m. Bhí An Ceann Comhairle, Micheál O hAodha, sa Chathaoir.

CEISTEANNA—QUESTIONS.

[ORAL ANSWERS.]

GOVERNMENT PUBLICITY.

TOMAS MAC EOIN asked the President whether his attention has been called to a communiqué printed by the *Irish Times* on Monday, 23rd inst., from the Government Publicity Department, concerning a Convention of Cumann na nGaedheal; whether the Government Publicity Department is being used in this manner to further the interests of a political party.

The PRESIDENT: This statement was not issued by the Government Publicity Department, and I would refer the Deputy to the correction published in the *Irish Times* of yesterday.

The Government Publicity Department does not issue statements in the interests of any political party.

Mr. JOHNSON: Will the Minister say whether he has issued instructions that military bands and the like will not attend political demonstrations?

AN CEANN COMHAIRLE: That is a separate question.

MINISTER FOR DEFENCE (Genl. Mulcahy): There are already instructions to that effect.

Mr. JOHNSON: They are not always obeyed. According to the Cork papers there was a military band at Tralee on Sunday.

The PRESIDENT: I did not see it, I must say.

Mr. JOHNSON: Was the Minister responsible for having the band there? The Cork paper says it was there.

The PRESIDENT: I have said I did not see it, and I did not hear it either, and I was in a position to do both one and the other.

Mr. JOHNSON: Maybe the story of the Cork paper was all bunkum?

THE BOUNDARY COMMISSION.

DARGHAL FIGES asked the President if the appointment of the Free State representative on the Boundary Commission was made as the result of a clear understanding with the British Government that the second clause of Article 12 of the Treaty was now definitely to be proceeded with; and, if so, if he has yet been informed who is to be the representative of the British; or what answer; if any, he has received in reply to the notification that the Saorstát had now appointed its representative?

The PRESIDENT: I have nothing to add to my statement in the Dáil on the 20th July. When the British Government communicates with us the Dáil will be informed.

THE PURCHASE OF TRAWLERS

DARGHAL FIGES asked the Minister for Finance if he can state whether a fleet of twelve trawlers was recently purchased by the Government, and for what sum; if he is aware that these trawlers had previously been offered for sale in the public market; further, to ask the Minister if orders were given to fit these trawlers with electrical machinery, and if so, at what estimated cost per trawler?

The PRESIDENT (Minister for Finance): Twelve trawlers were purchased some time ago by the Government for a sum of £87,000. I am not aware that they were previously offered for sale in the public market. The Minister for Defence and I are considering what further equipment may be necessary to fit these vessels for the particular purposes for which they are intended.

Mr. DARRELL FIGGIS: Arising out of that answer, is it the case that orders were sent to fit these trawlers with electrical machinery and that at a subsequent date those orders were countermanded?

The PRESIDENT: That is not in the

[The President.] question, and I would want some further notice of that question before I could be in a position to answer it.

Mr. DARRELL FIGGIS: I give notice that I will raise this on the adjournment.

The PRESIDENT: If the Deputy wishes to have the matter settled there is no use in raising it on the adjournment. I cannot get the information by that time.

AN CEANN COMHAIRLE: Will the Deputy put down a separate question?

Mr. DARRELL FIGGIS: When will that come forward then?

AN CEANN COMHAIRLE: On Friday.

Mr. DARRELL FIGGIS: I will do that in the alternative and keep the matter over.

SHOT GUNS SEIZED IN 1918.

SEAN O LAIDHIN asked the Minister for Home Affairs whether he is aware that, during the year 1918, shot guns were taken by the R.I.C. from a large number of people in Westmeath and Longford, to whom they gave receipts for those guns, so seized. Further, as those guns were used for the protection of crops, will the Minister state if they will be returned; or, if not, will persons holding receipts be compensated.

MINISTER FOR HOME AFFAIRS (Mr. K. O'Higgins): I would refer the Deputy to my reply to a question by Deputy Wilson on 8th June, on the subject of shot guns. If, when arrangements have been completed for the return of guns surrendered to the British forces by the civil population, it is found that there are cases where the guns cannot be traced it will be open to the owners to make application for compensation.

Mr. LYONS: Will the Minister say whether these people will be entitled to get permits? There are a great many people who have those guns which they use for the purpose of slaughtering cattle, and there are a great many people who want these guns. As well as giving them compensation will you give them a permit to get a new gun?

Mr. O'HIGGINS: The whole matter of regulation for the control of fire-arms is at present the subject of consideration between my Department and the Ministry of Defence. The regulations are not complete, and the Defence Ministry does not at the moment take the view that the matter of the control of fire-arms is one for a Civil Department.

UNEMPLOYED ORDNANCE WORKERS.

AILFRID O BROIN asked the Minister for Industry and Commerce whether the repeated applications for re-instatement from Mr. Thomas Dalton, on behalf of the Ordnance workers who lost their employment as a result of the transfer from the British authorities of the various barracks and works to the Free State Government in December last, has been considered; if he is aware that letter M. 735, of 7th December, 1922, sent by his Department to Mr. Dalton, promised preference to members of the Ordnance staff; if he will state whether the men's claims for re-instatement is still under consideration; if not, will he grant them pension or gratuity for loss of employment.

General MULCAHY (replying for Minister for Industry and Commerce): I have been asked by the Minister for Industry and Commerce to reply to this question, which properly concerns the Defence Department.

Several communications were received by me indirectly through the Minister for Industry and Commerce, and also directly from Mr. Dalton on the subject of employment for persons employed by British authorities at the Ordnance Depot, Island Bridge. They received due consideration. I think eleven such men have been employed by us on Ordnance work.

As regards the letter from the Minister of Industry and Commerce referred to, I am afraid that this was issued under a misapprehension. It was intended that as opportunities for employment arose the claims of former Ordnance workers for re-employment would be kept in mind. These services have, however, with us been run by military and not by civilian personnel, and only such persons, therefore, as could be accepted for Army service could be employed.

The question of re-instatement in the proper sense of the term does not arise.

We are under no obligations in that respect.

It is not possible to entertain any suggestion of granting pensions or gratuities. That would be a matter for the British Government who, I understand, have given gratuities in certain cases.

KILCULLEN UNEMPLOYMENT BENEFIT CASE.

AODH O CULACHAIN asked the Minister for Industry and Commerce what is the reason for the delay in paying unemployment benefit to M. Hogan, Kileullen, Co. Kildare, Ref. No. E.B. 67124, and if he will speed up a settlement of this claim, so that this man may be saved from starvation.

Mr. O'HIGGINS (replying for the Asst. Minister for Industry and Commerce): From the reference number given in the question, it is assumed that this is one of the ten cases about which a question was answered by the Deputy on the 18th inst. I have at present nothing to add to that answer, the circumstances under which the claim to benefit was made being still the subject of an investigation. I will see that there is no avoidable delay in completing it.

A CASTLETOWN PRISONER.

SEAN O LAIDHIN asked the Minister for Defence whether he is aware that John Flynn, Castletown, Westmeath, was arrested by National Troops on 18th April, 1923; whether it is alleged the prisoner fired a shot at a neighbour; to ask that the prisoner be brought to immediate trial or else be released.

General MULCAHY: Flynn was arrested as stated in connection with the firing of revolver shots into the licensed premises of Mr. Moore of Castletown-Geoghan. A revolver was found by the military on searching his house. His case is being enquired into.

BALLINACK PRISONERS.

SEAN O LAIDHIN asked the Minister for Defence whether he is aware that Denis Dunleary, of Ballinack, Westmeath, was arrested by National Troops on January 19th last; and, further, if he is aware that his brothers, Michael and Thomas, were also arrested by National Troops on May 11th last; and whether these three men are still detained with-

out any charge being preferred against them. To ask whether it is the Minister's intention to bring these men to trial, or to release them.

General MULCAHY: The men are still in detention.

Denis Dunleary was arrested on the grounds of aiding and abetting the Irregulars. He has refused to sign the usual form of undertaking, and it is therefore not proposed to release him.

Thomas Dunleary has been tried before a committee of officers who have recommended his internment. It is not, therefore, intended at present to release him.

I am making enquiries as regards Michael Dunleary.

SUPPLEMENTARY QUESTION (TRAWLERS.)

Mr. DARRELL FIGGIS: I gave notice to raise a matter on the adjournment, and I decided, at the request of the Minister for Finance, to postpone the matter until there was a further answer on Friday. I had not noticed at the time that the supplementary question I put was really the original question, so there is no reason why the answer should not be given now. I do not know how far the orders which you administer so justly permit of my putting down as another question what has already appeared as a question and has not been answered. If you look at the second part of my question you will see that is the supplementary question I put.

AN CEANN COMHAIRLE: The supplementary question asked whether orders were given to fit trawlers with electrical machinery, and whether those orders were subsequently countermanded, which adds some new matter.

Mr. DARRELL FIGGIS: The last four or five words.

AN CEANN COMHAIRLE: If the Minister asks for time to answer the last part of the question on the Paper to-day, with the addition made by the Deputy, it would be in order to have that question appearing on the paper in the circumstances.

Mr. DARRELL FIGGIS: In that case I am quite content, if you will take notice of that question for Friday.

THE CIVIC GUARD BILL, 1923— FIRST STAGE.

Mr. O'HIGGINS: I ask the leave of the Dáil to have printed and circulated a Bill to establish in Saorstát Eireann, and regulate a Police Force to be called "The Civic Guard." The necessity for a Bill of this kind will be obvious to Deputies. The disbandment of the R.I.C. necessitated the raising of a Force for policing the Free State territory outside the boundaries of the Dublin Metropolitan Police area. A committee was appointed by the Provisional Government early in 1922 to inquire into and advise on a form of Police Organisation, most suited to the needs of the country. On the broad basis of the recommendations which that committee made, the Civic Guard was established as a force. The only statutory authority for the Civic Guard at the moment is contained in a Section of the District Justices' Bill. What is sought now in this Bill is full statutory authority for raising, training, equipping and paying of the Civic Guard. It has been found possible to embody all that is thought to be really essential in a Bill of 24 Sections, and I ask leave now to have that Bill printed and circulated to members.

Question: "That leave be granted to introduce the Civic Guard Bill, 1923," put and agreed to.

Second Stage ordered for Monday next, 30th July.

CIVIL SERVICE REGULATION BILL 1923.—SECOND STAGE.

The PRESIDENT (Minister for Finance): I move the Second Reading of this Bill which is now in the hands of Deputies. In England the Civil Service Commissioners hold their office during the pleasure of His Majesty, and are appointed on the advice of the Prime Minister who is the First Lord of the Treasury. Here the appointment which is proposed in the Bill is by the Executive Council, on the principle that the Commissioners are functioning under the authority of the Government. The Executive Council being the executive authority of Government, charged with the responsibility of administering the service and so on, must be given the powers to select its own instruments who will be responsible to the Executive Council. The second section of the Bill

deals with the duties devolving upon the Civil Service Commissioners. They will not be whole-time officers. Just now there are some arrears of work, and there are certain examinations in the immediate future which must be carried out, but when things settle down the duty of the Commissioners will not be of such a character as would necessitate whole-time occupation. It is intended—and I gave notice to some Deputies—to ask the Commissioners to hold examinations for County Surveyors before the Bill passes. It appears that there are four counties without a County Surveyor, and in one case the work of the county is to some extent interfered with by reason of the fact that no examination has been held for a very long time. An examination is necessary in order to secure that the person or persons who would be candidates would be qualified for the work of surveying. Recently many representations have been made to us, from one county in particular, and I undertook, in order to avoid the possibility of a person being appointed who would not be competent, that I would inform the Dáil, and in the absence of any objection, say that I would request the Civil Service Commissioners in addition to the examinations that they intended to hold for Customs officers to hold this other examination.

In Section 3 the first Sub-section makes it imperative that every person holding a permanent situation shall have a Civil Service Certificate. Sub-section (2) of Section 3 prescribes conditions for the Civil Service Certificate similar to the conditions in the Order in Council of 1910 with regard to the British Civil Service. Sub-section (3) of Section 3 is an important provision. It is to the effect that promotion in the customary course is a matter for the discretion of the Minister in charge of the Department and not a matter for the Civil Service Commissioners. Section 4 lays down the principle of open competitive examination. Sub-section (3) is necessary for examinations such as the Customs and Excise examination for army candidates and further examinations in which, in the public interest, it may be desirable to reserve appointments for persons who have served in the Army. Section 5 is the governing Section for these appointments in the public service for which competitive examinations are either inapplicable or unnecessary. It deals with such cases as engineers, solicitors, architects, etc. Sec-

tion 6 enables the Civil Service Commissioners to issue their certificates for such appointments as the professional and technical appointments referred to above. It also enables the Commissioners to deal exceptionally with individual cases in the public interest. Section 7 is necessary because of the provisions of Sub-section (b) to the effect that no person shall be appointed until a certificate of qualification has been issued. It might happen in the case of pressure of work that an officer selected for an appointment might be required to take up his duties immediately and in order to allow for that this Section will provide the necessary machinery. Section 8 deals with what I have mentioned about County Surveyorships. I suppose it is unnecessary to say anything further about that.

It is a question, of course, for the future as to what extent the Civil Service machinery might be utilised for the holding of examinations for appointments under Local Authorities and the Bill does not provide for anything more than enabling the Commissioners to hold these examinations. It is not mandatory. A great number of people hold the view that the sooner Local Government officials will pass through a Civil Service door the better it would be for the administration of Local Authorities. However, there is nothing binding in the proposal; it is simply an enabling Section. I think that deals generally with the matter of the Bill. It is advisable that this Bill should receive the earliest consideration of the Dáil and I hope that its passage will be facilitated.

MINISTER FOR FISHERIES (Mr. F. Lynch): I beg to second.

Mr. DARRELL FIGGIS: I received this Bill yesterday and read it with some care and also with some disappointment. I am opposed to the general principle of the Bill. I agree heartily that there should be a Civil Service Commission and agree equally heartily that all Civil Servants should be required to pass a public examination before they are entitled to serve in the Civil Service of the State. On those introductory matters there can be very little disagreement. My disagreement with the Bill is on a general question of principle dealing with the powers and functions of the Civil Service Commission itself.

This is not the first time that this question has been touched upon in this new State we have established. It has been passed through in a number of States, and the tendency of late has been in a certain direction, which is not the direction taken by this Bill. Before I define the difference of principle which I believe myself—having been interested in this matter for some time—that a Civil Service Commission should adhere to, as distinguished from the principle that it does set forth, I would like to say at the very outset with perfect candour, that I should be the very last to suggest that the point of view I am now going to put forward has all the merits, exclusive of any other point of view. I know there are two opposed systems by which Civil Service Commissions should work. Neither system has all the merits. I do suggest that the principle of the system adopted in Canada, South Africa, and by a number of States, increasingly of late, is the system that is best suited to the conditions here. Speaking on this matter once before in the Dáil I suggested that the position of the two systems might be put under two heads—the British system and the Canadian system. I just use those as an illustration of the point to which I desire to draw attention. According to what I have spoken of as the British system, which is the system adopted here, the responsibility of the Commission is subject in all matters to the responsibility of the Minister for Finance who happens as time goes forward to be appointed by the political majority of the Dáil. In England the results have been very beneficial, but in England there has been a very long and historic lineage behind that system which we cannot boast, and which Canada found, because it could not boast of such a lineage, did not produce the same results. The system has not produced the same results in other countries as we know it has produced satisfactorily in England. I do not believe it will produce the same results satisfactorily in Ireland that it has done in England, any more than it has done in other countries, of which I take Canada as merely an example. What I call the Canadian system, for the sake of simplification—it is not a Canadian system, being merely the system that Canada and other States have adopted—has established a Civil Service Commission that is an independent body directly responsible

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to the Legislature as a whole. That is in sharp distinction to the system prevalent in England—the system set out in this Bill—by which the Civil Service Commission is placed under the control of the Minister for Finance, who happens to be the chief, and probably will always be the most important and most powerful, Minister of the dominant Party of the day, whatever Party that may happen to be. In Canada not only are examinations of Civil Servants decided by the Commission, but they undertake a number of other matters as well. They arrange for Civil Service Examinations; they issue certificates of qualification; they arrange for interdepartmental transfer of officers in the service; they also make such provision as is required for recruitment on short notice of a temporary staff for purely temporary work. I will later set out exactly why these decisions were come to in Canada, and I think the results are very remarkable results and well worthy of attention in this country.

The essential principle of that system is that the Civil Service Commission holds exactly the same relation to the Legislature as the Comptroller and Auditor-General does in our Constitution. Any proposals that the Civil Service Commission desires to have adopted it lays before the Legislature as a whole. I am prepared in that matter to hear the opposite argument put forward perfectly fairly that a system of that kind is not consonant with the financial responsibility to the Dáil, of the Minister for Finance appointed by the Dáil. My answer to that is that, although that may appear to be so at first sight, on a little examination it would be found that that is not the case; that the financial responsibility of the Minister for Finance under either of these two systems, the British or the Canadian, comes to exactly the same thing. But whereas under one system it is indirect responsibility, under what I have called the Canadian system it operates in a different way. Supposing, let me say, that the other system had been the one adopted in this Bill, supposing an independent Civil Service Commission, responsible directly to the Legislature as a whole, had been the system adopted, in that case the Civil Service Commission would put forward certain regulations that could not be given effect to until they had been adopted by

the Dáil. They would make recommendations which might involve expenditure of money which could not become effective until they had been adopted by the Dáil. But before they could be adopted under the Constitution the Minister for Finance would have, if they involved expenditure of moneys, to make a recommendation to that effect. Otherwise they would lie on the Table and continually remain nugatory, as the necessary steps had not been taken to put them into effect. So far as the financial responsibility is concerned, the two systems are practically on all fours. The advantage gained in appointing a Commission, whose responsibility is more independent and put directly under the control of the entire Legislature, is, and has so proved to be in the Canadian experience, such as leads to the confidence of the Civil Service.

It is proved there, and in England, and it must prove—it is not a necessary allegation to say that it is also proved here since the establishment of this State that Civil Service appointments bear, rightly or wrongly, the colour of being influenced by party reasons and made with a view to the rewards of what has been generally known, in the discussion of this subject, as the "spoils system." At the present moment the case in Ireland is, that all appointments have to be confirmed by the Establishments Office of the Ministry of Finance, and appointments have been made that have aroused a great deal of dissatisfaction both in the service and outside the service. I am not going into that now. I am not concerned with that at the present moment. I want to keep perfectly clear of that because I desire that this case should be put forward without being brought into politics of the day because I believe it is a case worthy of the most careful examination upon its merits.

Let me deal with the present Bill and see exactly how it works. Sub-section (2) of Section 2 states "The Minister for Finance shall appoint such and so many persons as he may consider necessary to be Officers of the Commissioners, and such persons shall hold office upon such terms and be remunerated at such rates, and in such manner, as the Minister for Finance shall determine." In other words the Commissioners, their

terms of office, and conditions of service are all to be decided by the Minister for Finance for that day.

AN CEANN COMHAIRLE: That refers to the Officers of the Commission itself under Sub-section (2) of Section 2.

Mr. DARRELL FIGGIS: The Officers of the Commission; those who are largely dealing with the entire service of the Commission. The persons dealing with the Commission are persons who remain all the time and are appointed subject to the control of the Minister for Finance of the time. In that connection let me refer to Section 6. Section 6 states that the Minister for Finance and the Minister in charge of a Government Department shall consider

“(a) that the qualifications in respect of knowledge and ability deemed requisite for any particular situation to which this Act applies in that Government Department are wholly or in part professional or otherwise peculiar and not ordinarily to be acquired in the Civil Service and the Minister in charge of such Government Department shall propose to appoint to such situation a person who has acquired such qualifications in other pursuits, or.”

And this is so very important a Sub-Section that I am extremely surprised to see it in this Bill because whatever system we adopt surely this is a questionable provision;

“(b) That it would be for the public interest that the rules in regard to age and the whole or any part of the examination for such a situation as aforesaid should be dispensed with.”

That is a very remarkable provision. It may become, at any particular time, a very sinister provision. If that happened to be the case, “the Commissioners may,” the Bill says, “if they think fit, grant their certificate of qualification in respect of such situation upon any evidence which is satisfactory to them that the person proposed to be appointed to such situation is fully qualified therefor in respect of age, health, character, knowledge and ability.”

In other words, if the Ministers who

are appointed by the Party of the day decide that it would be for the public interest, as they may hereafter interpret the public interest, that the rules set up by the Civil Service Commissioners may in whole or in part be set aside they shall make that recommendation to the Civil Service Commissioners, and the Civil Service Commissioners may, if they think fit, grant their certificate, although the terms of that certificate may not have been fulfilled. A very eminent Irishman spoke at one time of driving a coach and four through any Act of Parliament. I think a whole team of coaches and four could be driven through the provisions of this Act. But now, note Section 10. Section 10 depends upon the Schedule. In the Schedule to this Bill certain offices and functions are withdrawn as being inappropriate for the jurisdiction of the Civil Service Commissioners, and having read through these six paragraphs in the Schedule, I think most of us would be in agreement that they could all safely be withdrawn with one possible exception. But now turn to Section 10, and see how it affects the Schedule. Section 10, Sub-section (2), says “the Commissioners may by order made on the application of the Minister in charge of any Government Department and with the consent of the Minister for Finance add any situation in that Department to the Schedule to this Act.” In other words, if the Minister for the day—it may be the Finance Minister, and I do not suppose that we shall always get Ministers quite so immaculate as those we now have the good fortune to possess—desires to withdraw, and he may be urged by his party that certain positions be withdrawn and placed in the Schedule, then they may be so withdrawn and placed in the Schedule, and persons may again walk through the loophole in the Act into the Civil Service, although they have not fulfilled the conditions of the Civil Service. I do think these are faults in this Bill. But I am now dealing with what I think is even a more important matter, and that arises out of the consideration put forward.

I do urge it would be for the satisfaction and confidence of the Civil Service as a whole if appointments to the Civil Service hereafter in the Free State were put into the control of an independent Civil Service Commission directly responsible to the Legislature as a whole, and

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that the Commission should have much more extended powers than the powers allotted to it here. The powers given to it under this Bill are very largely under the influence of the Ministry for the day and of the Minister for Finance. They are powers which, if this Bill is to embody a principle hereafter to be adopted, may be exerted by the Minister for Finance on many occasions, on the overwhelming number of occasions, for, let us say, purely financial reasons, but which may be often exercised, and which it is possible may be exercised, for reasons which shall not be financial, but purely political. I am not now stating my own gloomy prognostications for the future, which the future may not fulfil; but this has proved to be the experience of other States, as I will show later. The reason why Canada adopted the particular form of Civil Service Commission that I am now urging the adoption of was because that has proved to be the case there, although they have been working for over sixty years now. In Canada these evils have proved to be the case from experience, and they have had to work out of the kind of Commission outlined in this Bill into the kind of other Commission that I am now recommending—an independent Commission—a Commission holding the same relation to the Legislature as the Comptroller and Auditor-General. The Commission there is entirely responsible to Parliament as a whole for all Civil Service appointments, transfers, and arrangements; and if some of those transfers should happen to be suggested by the Ministry as being desirable by them, they may be suggested by the Ministry and are considered by the Commission; but for the transfers themselves it is the Commission that is ultimately responsible. Now, having had occasion to give this matter a good deal of thought for some time, I believe on its merits, not merely as a logical principle, but merely on its merits as arising from the experience of others, that that system would be very much better in this country under any circumstances. What I now desire to bring before the Dáil is the further consideration that in the circumstances—the peculiar and the particular circumstances of Ireland—this form of Civil Service Commission adopted by Canada is the one that will most wisely

answer our difficulties and meet some problems which we will certainly have to face in the very near future. It is a matter of public knowledge—all know it as a matter of historic knowledge—that in Canada there are religious difficulties which are also present in this country, and we know that there has been very keen and very fierce party strife over a large number of years. The spoil system, such as prevailed in the United States, prevailed in Canada. In 1908 the Liberal Premier of that time established a Civil Service Commission on the lines of the English Civil Service Commission, but it was found more and more necessary to work away from that principle. The Premier of the opposite party, the Conservative Party, Sir Robert Borden in 1918-19 adopted the system that I am now recommending, with the result that the Civil Service Commission since then has become a settled body, which has not been raided by the political party of the day. Now, I wish to draw attention to a matter of very considerable importance, because since Sir Robert Borden, the Conservative Premier, adopted the principle in full that I have defined and am now urging, there has been a General Election. The Liberal Party was brought in, and was urged by its supporters during the whole course of the election, and even gave pledges to that effect, that the Civil Service system adopted by the outgoing Premier should be overthrown in order that the new Liberal Party should be able to reward its party with Civil Service appointments. The party came in upon that pledge. It came in and found the Civil Service with such a sense of confidence in the Commission that had been set up that, although it has since been urged, and may at this very moment be urging, that the achievement of the Civil Service Commission on the lines I have stated should be put aside in the interests of party appointments, Mr. MacKenzie King has so far refused to listen to any of the interested advice that he has received, because he has found that an independent Civil Service Commission—a Commission responsible, not primarily to his Government, but to Parliament as a whole—gave a security and confidence that he desired to see maintained in the needs of the efficiency of the service. I would like to read just a few words from a quarterly magazine in which this mat-

ter, by chance I found, has been dealt with. It says:

"It happened, however, that the Liberals had been the last victims of the patronage system; after the 1911 elections thousands of Civil Servants who had been found guilty of Liberal politics had been ruthlessly dismissed from their posts. In Quebec and the Maritime Provinces, where the purge had been particularly drastic and the desire for revenge had burned deep in many bosoms, Liberal candidates in 1921 had blithely assured the electors that the abolition of patronage had only been one of the many monstrous follies of the Coalition Government, and that the fine old system of 'spoils to the victors' would be restored as soon as a sane and intelligent Liberal administration was seated in power in Ottawa. But after this day dawned, the passing months brought no sign of the great restoration which would open the doors to the faithful. Angry deputations descended upon Ottawa and Liberal members became afraid to visit their homes. When they explained that the Civil Service Reform Act barred any reward for faithful partisanship, they were bidden to destroy the hated thing. Driven to despair they applied pressure upon the Government, and the latter in face of the opposition of most of the Conservatives and Progressives secured authority for a parliamentary committee which was charged with the duty of examining the workings of the Civil Service Reform measures and the Civil Service Commission and suggesting improvements."

It goes on to state that that Committee is now sitting but that it is unlikely that any change will be made because of the benefits that have been conferred by the kind of Commission that has been adopted.

The PRESIDENT: Who is the author?

Mr. DARRELL FIGGIS: All the articles in that magazine are unsigned, it is well known. The writer is a writer who communicates from Canada. In any case these are historical statements. The result has proved so satisfactory that other countries, including the Sister Dominion of South Africa, have adopted the system that they have adopted there. For these rea-

sons I urge that a Commission established upon the lines I am now recommending would, owing to the acute controversy which we must take over from the past between different political schools and unfortunately, if we are to hope for the unity of this country, religious schools also, that it would be desirable that no opportunity should be given to anyone aggrieved partly to suggest—rightly or wrongly—I am not going into the rightness or wrongness of any such allegation—that the provisions, especially the provisions to which I have referred, of Section 6 (b) and Section 10 (2) of this Bill are being perverted for the appointment of political adherents, but that owing to the existence of an independent Commission there may be that security given. It is well known to the Minister and to the Executive Council as a whole that the principles that I am now bringing before the Dáil are those which the Civil Servants themselves desire to see adopted. I do not urge it for that reason. I urge it from long conviction of my own that they are the principles that the Service as a whole would desire to see adopted, because they feel that they are the principles under which they would be able to serve all parties alike with equal confidence. That should be the aim in the appointment of any Civil Service. One recognises in a Bill of this kind that it is dealing with what is perhaps the most important matter in any country. Governments come in and Governments go out, but the Civil Service remains. Very often the person who is to sit in the Ministerial chair—more often than not—is merely the spokesman of those who understand the machine which he is presumed to administer with such masterly skill. If we can secure an efficient Civil Service we will have secured in this country an instrument of the very greatest importance to the future. And in order to secure an efficient Civil Service it is of the very essence that we should secure in the first place a satisfied and confident Civil Service. I believe that such a Civil Service would best be secured by the appointment of a Commission that is not under the control at any time of the Government of the day, but is directly responsible, as an independent body, to the Oireachtas as a whole in exactly the same manner as the Constitution has decided in respect of the

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 Comptroller and Auditor-General. If it was right in his case—and it was decided it was right in his case, because of the required impartiality of his administration in regard to moneys—I urge it is right also in the case of the Civil Service Commission because of the required impartiality in its case in regard to personnel.

Mr. JOHNSON: I want to express general agreement with the view put forward by Deputy Figgis, that the form of Civil Service and the power of the Civil Service Commission that is applicable to England is not equally applicable to Ireland, and that the form which has been adopted in Canada, Australia and South Africa—in some cases after trial of the British system they reverted to the system which Deputy Figgis has spoken about—is the form which should be operating in this country. The Minister, in his opening statement on the First Reading, said that they had made a careful survey of the Dominion Civil Service arrangements, and had decided to reject them. The Bill shows that all distinctive features of the Dominion arrangements have, as a matter of fact, been rejected, and that the provisions of this Bill merely set up by statute precisely the same kind of arrangements and machinery as exist in England under Orders in Council. I hope that that is not intended to be made a permanent enactment, and that we shall have fixed, without proper consideration, this system on this country. It is well, perhaps, to acknowledge that in this Bill, whether deliberately intended or not, there has been effected, or will be effected, a revolution in the status of the Civil Service. Hitherto British Civil Servants have remained in legal status what they were by historical evolution—domestic servants of the head of the State. Their status was accordingly regulated by Orders in Council, Treasury Minutes, and acts of the Executive. But this Bill marks a new departure, and is the beginning at least of a process of making the Civil Service a matter for legislation and not for the prerogative of a royal person or anybody acting under the authority of a royal person. That, I think, is a matter of congratulation.

The machinery of the Bill and the provisions contemplated by the Bill ought not to be fixed upon the State without

very full discussion and consideration. I would urge the Minister to assure the Dáil that he is prepared to accept on Committee Stage a provision limiting the operations of this Bill to a few months, so that there shall be of necessity due consideration given to the permanent arrangements under which the Civil Service shall be governed. Otherwise there shall need to be demands made to amend this Bill, and, as we all understand that the Minister is desirous of not having too many contentious points raised during the next few weeks, I look for an assurance from him that he will accept an amending Section or paragraph limiting the operation of this Bill to a period of, say, six months.

The PRESIDENT: I have no particular objection to the suggestion made by Deputy Johnson that the Bill should last only for six months. It is really necessary now, but it may possibly get more consideration if the Bill be again introduced after six months, although personally I do not see any necessity for it. I must say that Deputy Figgis did not convince me with regard to his side of the case. He said that there was a tendency recently in a certain direction, and he did not say in what direction. Whether he was speaking about salvation or about other things I do not know. What he meant to convey by "a tendency" I could not gather either.

He said that appointments had been made which were giving great dissatisfaction inside and outside, and then said he did not wish to go into that. I think it is rather a matter of some importance that if appointments have been made which give great dissatisfaction, either inside or outside, they ought to be mentioned. This is the time for mentioning them, and I certainly have heard nothing of them.

Mr. DARRELL FIGGIS: I would like to say that I have deliberately said that I dealt with this before in the Dáil, and the Minister knows that I dealt with it before, and I am quite prepared to give the fullest time and attention to them if they are required, but I do want to keep the attention of this Bill to what I consider the principle of the Bill.

The PRESIDENT: I am sure if we are here much longer the Deputy will make the statement so often that he will

probably convince himself that he is right, but I do not know that he will convince anybody else. The spoils system is not being introduced into this Bill. The particular clause to which he takes exception is Clause 2, which is a clause practically on all fours with a similar power which was taken, I think, in 1920 by a British Order in Council. I understand that the whole Irish Civil Service was reorganised as part of a general scheme of reorganisation, and certain unestablished officers who had held posts for many years before the war were placed on the establishment and received Civil Service certificates. There is no reason why the same thing should not be open to be done again if the necessity should arise. The objection made to Section 2, Sub-section (2), is an objection that I fail to understand. If the Minister for Finance does not appoint these officers, who is to appoint them? Is it Deputy Figgis?

Mr. DARRELL FIGGIS: No, but the Commission.

The PRESIDENT: They would appoint their own officers?

Mr. DARRELL FIGGIS: Exactly.

The PRESIDENT: Even the Comptroller and Auditor-General does not do that. In tabling a scheme for the Comptroller and Auditor-General we table something in excess of the powers which the Comptroller and Auditor-General has. Now, I have only one thing to say with regard to the criticism of appointments. There have been no new permanent appointments in the Civil Service, with the exception of the Dáil staffs, since the change of Government, and I have no recollection, except of one case or of two cases that have been mentioned by the Deputy, that he took any exception to them. I think it is very invidious to raise this question without going into them. I will defer dealing with it until some other time. I am not at all satisfied with the case that the Deputy has made, that the system that he has propounded is one that would be more suitable here. "Responsibility of the Oireachtas." In what fashion, and by whom? Are the Commissioners to be brought here to the Table of the Dáil in the event of any dissatisfaction arising from the performance of their officers? How is the Dáil to get any information

from them? They are to be independent, and I suppose that there is no such thing in the matter of the spoils system of utilising the services of such officers in order to prevent them being criticised in the Dáil. I think that if the Deputy had as much information about the administration as those of us who have put up this Bill he would be satisfied that the system he himself has recommended is a system which in this country might be open to very much graver abuses than the one we are recommending here.

Question put: "That the Bill be now read a Second Time."

Agreed.

The PRESIDENT: Have you any objection to having the Committee Stage to-morrow? I will agree to have that clause inserted making it run for six months only.

Mr. DARRELL FIGGIS: I suggest that to-morrow is a little early, unless amendments can be taken over the Table with regard to it. There are two or three amendments which I wish to move. I do not wish to make any difficulties. I can prepare them to-night and hand them over the Table to-morrow if the Dáil prefers that.

AN CEANN COMHAIRLE: If the Committee Stage is to be taken to-morrow amendments must be received without notice.

The PRESIDENT: Certainly.

Committee Stage ordered for Thursday, July 26th.

SUPERANNUATION AND PENSIONS BILL—SECOND STAGE.

The PRESIDENT: I move the Second Reading of this Bill. It deals, as I have already explained, first of all with the Dáil Civil Servants, and places them in a pensionable service, that is those who were in the service of the old Dáil Departments previous to the Truce. The Truce is taken as the dividing line. The Dáil Civil Servants appointed after the date of the Truce are eligible for appointments to the Civil Service in the ordinary way, the same as other temporary Civil Servants in the Government employment. Sub-section (2) is an exceptional provision. The Superannuation Act of 1914 abolished the provisions

[The President.] previously obtaining. which permitted of the addition of a certain number of years in the service. That occurred mainly, I think, in the cases of persons in the professions. Some of the officers of the Dáil were advanced in years, and power is taken there to add a certain number of years' service in such cases. Another question that has been before us for some time is the case of victimised Civil Servants during the last few years. It is necessary to provide that Civil Servants so victimised would not lose their pensionable rights, and we are providing for them in this Bill. There is another class which is not provided for in any of our Superannuation Acts, members of the C.I.D., the C.D.F., and the Protective Force. Some of these have been killed and some have been badly wounded, and we are proposing to take power to deal with them in this Bill. There is also provision for dealing with the pensions of certain pensionable National School Teachers. Another Clause deals with some cases of officials who have come over from the British. It means that where an officer is transferred from the British Civil Service he is granted on his ultimate retirement from the Free State Civil Service a pension based on his total service, a financial contribution in respect of this being payable by the British Government in respect of the period of service under the British Government. I beg to move the Second Reading.

Mr. JOHNSON: I must admit that I have not given much consideration to this Bill since it was circulated, but there are two or three points that I think ought to be considered before it passes even the Second Reading. Section 1 deals with the position of persons transferred from public departments of Dáil Éireann of the pre-Free State days, and it provides for the transfer of such officers and the granting of pension rights to such officers, but makes no call for any question of competence to be raised. While I do not want to cavil at all at fixing the status of those men and women, I think that some consideration should be given to their position with respect to the older Civil Servants, some of whom are senior in service and, I think, probably in experience, and possibly if not probably, in some cases in general efficiency. It occurs to me that

there ought to be provided for at least some certificate of competency, and that the Civil Service Commissioners might be asked to say whether these officers are qualified to continue the offices in which they have been placed. Of more importance, I note that in Section 4 we are introduced officially to some organisation of which we have never heard officially. They are now introduced to the Dáil with the view of putting them into a position of being the recipients of pensionable rights. We have heard of the Criminal Investigation Department. I think we have even passed Votes for it, but we have not heard officially of the Citizens' Defence Force, and we have not heard anything of the Protective Force. The Protective Force, I think, was described to us as a body which was set up for the purpose of protecting citizens at a time of very great crisis, but the Citizens' Defence Force, I think, has not been referred to at all. I have no knowledge of such a Force. I do not know whether it is part of the Army or part of the Police Force, and I do not know whether the Dáil generally knows anything about this Force, but it is introduced in this Clause, which provides for the granting of pensions to members of those departments.

I think it is due to us that we should know something about their work, their constitution, who their officers are, or at least, if that is thought unsafe, that we should get some information about their constitution and their activities. It is not reasonable to come to the Dáil and tell us that pensions should be granted to persons who have been wounded who belong to those armed organisations specially raised by the Minister for Home Affairs, when we only now hear that there are such organisations. Can any Deputy of the Dáil tell us what the duties of the Citizens' Defence Force were or are? Or can any Deputy tell us what the different duties of the Protective Force were or are? Do they still exist? Out of what Vote have they been paid? One would have thought that the Criminal Investigation Department would have comprised all that was necessary for the maintenance of order and the protection of the persons and property. But now it seems that there were other forces acting under the authority of the Minister for Home Affairs of whom and of which we knew nothing. I, for one, feel that it is

quite necessary that we should have some more information with regard to those forces before we go very far with this Bill. One might ask also is it the intention to include this force in the Civic Guard Bill? If not, are they to be legalised? What is their position? What is to be their position in the future with regard to legalisation? I invite the Minister to give us pretty full information as to the constitution and activities of these forces, particularly the Citizens' Defence Force and the Protective Force, which organisations were specially raised before the introduction of this Act by the Minister for Home Affairs for the maintenance of order and the protection of persons and property.

Mr. O'CONNELL: The remarks that I have to make at this stage refer particularly to Section 5 of this Bill, which provides certain increases for pensioned teachers. It is only fair to say at the outset that the provision in the Bill does, so far as I can see, carry out the promise which was made twelve or fourteen months ago by the late Minister for Finance General Collins, even to the extent of making whatever sum is payable, or will be payable, retrospective as from the 1st April, 1922, the date from which the late Minister for Finance promised such should be payable. While saying that, I must again express my regret that the cumbrous machinery of the Pensions Increases Act of 1920 has been retained in this section, when it has been pointed out on more than one occasion to the Ministry that that system of distribution, or the system of distribution adopted under that Act, was not a fair system and not an equitable system. I do not wish to go into details again, except to point out that the increases are on a percentage basis, so that a man who has a pension of £50 may get an increase of £25, while the man who has a pension of £20 can only get an increase of £10—50 per cent. also. That does not seem to be fair.

The suggestion was made, and urged very strongly on the Minister, that the basis to be adopted should be the basis of service given by the person who has the pension, and that for each year of service given a definite sum, say £1 per year or 15s. per year, or whatever would use up the amount that would be available under this particular provision, should be the basis adopted. That did

not mean that a greater sum than is at present available would be needed. That was not the suggestion. The only suggestion was that a different, and in our opinion a more equitable, system of distribution should be adopted. I regret very much that that system was not adopted. I have looked into the regulations which were made under the Pensions Increases Act, and they are almost as complicated as income tax forms. All sorts of queries are asked and expected to be supplied with regard to the means of the pensioner and with regard to various other matters. The other system would be much simpler in administration, in addition to being more equitable to the general body to whom this Bill applies. I do not know whether it is still too late for the Minister to look into the suggestion which has been made. If it is not, I do hope that he will give it consideration.

There are one or two other matters in this connection that I would ask the Minister to give attention to. There is one body of pensioners—I do not know how many of them exist now; they would be very few indeed—who will derive no benefit whatever from this provision. They are those who retired before 1900. I do not know whether there are many of them left. Of course, if they retired at the full age limit they would be over 80 years now. But some of them may have retired on disablement pensions or in some other way. I believe there are a dozen or so of these left, and they do not benefit under these provisions, inasmuch as the rules of 1914 were made retrospective only to 1900. They shut out all who retired before 1900. I think it would be only right if the Minister introduced some provision whereby those few would get some increase under this special provision. There is another class, too, that I would like to see brought under the provision of the Bill. Some time ago, before 1900, there was a provision whereby a teacher could commute his pension for a lump sum. In some cases when there was extreme necessity or some special demand had to be met, men took advantage of that provision. There are some of these left still. Perhaps they were pushed by necessity to take advantage of getting a lump sum, but they have been blessed with long lives, and they are shut out, of course, under the provisions of this section. If

[Mr. O'Connell.]

it were possible I would like to see these, too, brought under the provision of this section. As this is a general Pensions Bill, or rather a Bill applying to various classes, there is just one point which I would like to point out to the Minister for his attention. All the teachers are paid their pensions quarterly, while, if I am not misinformed, the pensions of other public servants are paid monthly. If that is the case, I would urge that provision should be made whereby these payments, and they are very small, should be made monthly instead of quarterly. It is too long to wait three months for this small pension. If it could be arranged that these pensions would be paid every month it would be a very great benefit to those pensioners. That, possibly, is not a matter for legislation, but administration, but I take this opportunity of calling the Minister's attention to it.

The PRESIDENT: In answer to Deputy Johnson's questions, I may say a provision is in the Estimates, on page 87, for dealing with one of the forces referred to in this Bill, the Protective Force; and in the case of the other force, speaking entirely from recollection, it was organised to protect property which was believed to be in danger during the recent incendiary period. As far as I know, the Estimates had been prepared, and there was no Estimate out of which the expenses of that particular force could be met, and the expenses have been met out of the Secret Service Vote. I think they have done their work very well, and certainly, in one case, I know one man was killed by an explosion.

With regard to the questions raised by Deputy O'Connell, they were four in number. One dealt with a different method of distribution; the second with bringing in the people who are drawing pensions since 1900; the third with persons who had commuted their pensions; and the fourth dealt with a different period of payment. The way the Deputy introduced all those cases left me under the impression that he was making only one case, but it appears there were four, and to them may be added another, the undertaking given by the late General Collins. I am not in a position to make his mind easy with regard to any of those matters, but I will undertake to

look into them. I think in the case of persons who commuted their pensions, they probably got good value for their money at a time when money was at a very much higher price than it is at present. With regard to the distribution of this money on a different basis to the one adopted in the Bill, I went into this matter very closely with the Officers of the Ministry of Finance, and I was satisfied, from the explanations given to me, that any other distribution than that mentioned, or even the alternative mentioned by Deputy O'Connell, would scarcely be fair.

There were cases in which small pensions have been granted by reason of certain short services, or dismissals, or something else of that sort. To bring those amounts up to something in the nature of an economic pension, might be drawing more from the amount of money it was intended to spend on these services than would be fair. After examining the cases very closely, I thought the method recommended under the Increases of Pensions Act, 1920, was the fairest. Before the matter is finally dealt with I would be willing to see Deputy O'Connell and some of the officials of the Ministry of Finance, and we will see if we cannot settle the matter. I am not at all satisfied that the suggestion he has put up is a better one than what we have suggested in the Bill.

Question: "That the Bill be read a second time," put and agreed to.

Committee Stage ordered for Monday, 30th July.

COMMITTEE ON FINANCE.

ESTIMATES FOR PUBLIC SERVICES.

UNIVERSITIES AND COLLEGES.

AN CEANN COMHAIRLE: The Dáil will go into Committee on Finance. Progress was reported in discussion of the Motion on Vote 53, Universities and Colleges. The sum was £20,750 and £90,050 has been voted on account.

Professor THRIFT: I desire to refer to the statement made in the Dáil by the President a week or two ago. It may possibly be the case—I do not know—that the part of that statement in which the President told the Dáil that he had skilfully closed the mouths of the

representatives of Trinity College for three years, in so far as asking for more is concerned, was the pleasantest to the Deputies of the Dáil. Even though that is the case, and I do not intend to depart from it in any way, I am not going to be pessimistic, like Deputy Magennis, and not hope that after three years I may be able to give vent to what has been pent up for so long and that the Minister for Finance may be there to receive the benefit of the pent-up flood. In the statement which the President made to the Dáil, he said that the arrangement made with Trinity College was accepted by the authorities of Trinity College, and I want to make it quite clear that it was accepted by them not grudgingly, but with appreciation.

They said that they thought, under all the existing circumstances, the Government had made a fair attempt to meet the claims of the College. I supported that, and I do so still, and I want to make it clear that I do so. I will even go further and acknowledge the very patient consideration that the Minister for Finance gave to the claims of the College, and express my belief that if circumstances had been different his reply to that claim would have been very different too. While I am not going to detract from that appreciation in any way, I do think it is important that the Deputies of the Dáil should recognise exactly what the arrangement that has been made means for Trinity College both in its present position and in its future position for the next three years. Realisation is very far from expectation. In 1918 the Commission appointed to go into the affairs of Trinity College recommended that in view of the increased costs of modern University education as compared with what was required some few years ago, an additional revenue of £49,000 was required by the College if it was to carry on its work properly. The British Government, considering that recommendation, made arrangements in a way which I will leave the Deputies of the Dáil to criticise for themselves. It secured, at any rate, to Trinity College £30,000 a year at the expense of somebody else. When the political change came, I am not suggesting that it was not very right and proper for the Irish representatives to say they must have a perfectly free hand in dealing with that suggestion. The net upshot

of the arrangement will be this, and we cannot hope it will be more from our point of view: the revenues of the College will not be substantially less than they were in pre-war days. It is quite true, I dare say, that in the existing circumstances the Government could do no more. We shall, I believe, be in the proud position of being the only University in Great Britain and Ireland which for three years will have to subsist upon a revenue not substantially greater than it was in pre-war days.

Deputy Professor Magennis made some references to Trinity College, and I think it is quite clear from the way he made the references that he was not basing his case for the National University upon the treatment that Trinity College had received. If he had been doing so, what I have said would make it clear that he would have no case at all. I do not want to make any comparison. I think it would be a great pity if this subject of University education were approached from the point of view of making comparisons. But I do want to point out that it is very difficult to compare in any way a residential University with a non-residential University so far as costs of running are concerned. Apart from that, we cannot compare University with University without at the same time taking account of the constituent Colleges. Deputy Professor Magennis referred to the munificent endowment—I use the word sarcastically—of the National University of £10,000 per year. Now, the University of Trinity College, Dublin, has no endowment at all either in the way of revenue or capital. All the endowments are concentrated in its one College. Therefore, you cannot pay attention to the endowment of the National University of £10,000 without at the same time paying attention to the revenues of its Colleges. Whilst I am on that point I think it is necessary to refer to the fact that, as compared with its pre-war revenue, the National University is in the favourable position as compared with us of having its pre-war revenue increased by a statutory grant amounting to £64,000 a year in addition to a non-recurring grant amounting to £19,000, and to a certain share of other grants—not that I want in the slightest way to minimise the claims which the National University has to further State aid. Their claims are the same as our claims.

[Professor Thrift.]

Both Universities require all the State aid that can be given. The needs of modern Universities are great as compared with their needs even 20 years ago. Deputy Professor Magennis referred to Trinity College as a rich foundation. It may have been so 50 years ago, before my time, but I do not think, if he was aware of the facts, that he would call us a rich foundation now, with our pre-war revenue. As was stated by the University Grants Committee, Universities cannot be financed under modern conditions on anything like the scale which was acceptable in the past. The same quotation goes on to point out what kind of an increasing revenue was required, indicating something like 100 per cent. increase of revenue as being necessary in view of the requirements of modern science. Both our claims are not to be set off against one another, but they are both claims which require, as I have said, all the aid that the State can give if either University is to do the work for the country which is laid out for it to do. Perhaps the Dáil may say, "If you think all this, why on earth did you accept the proposition which was made to you?" I think I used the words before in this Dáil that Rome was not built in a day. The State comes first, and I think we were public-spirited and said to ourselves that when things settle down it will be time enough to press our claims, that we could afford to wait until then to let the Government take up this question in the generous way that I believe they would like to do. We are content to carry on as best we can until that day comes. I do want the Dáil to understand that it simply means that many developments, at any rate, which we would like to carry out for the benefit of University education in the country, and for the benefit of the country, must be delayed until that favourable time arrives.

Mr. FitzGibbon took the Chair at this stage.

Professor MAGENNIS: I speak, not to disprove what Deputy Professor Thrift has said, but for other purposes. A school teacher that was trying to instil the rudiments of English composition into a class found particular fault with one of the pupils, who repeatedly used the vulgar form "a'int." Eventually the teacher lost patience, and exclaimed,

"How often have I told you that there a'int any such word as a'int." Last evening I spent considerable time in trying to distinguish two institutions that in the public mind are repeatedly confused—the National University of Ireland and its principal constituent college, University College, Dublin. In one of the principal morning papers—perhaps I ought to name it; I name it with all respect, the "Freeman's Journal"—all that I said is put down to the discredit of the Minister for Education. The onus and the odium of all the mistakes with regard to this institution, fortunately, fall upon him; but as I am instrumental in bringing him into contempt for ignorance of the elementary facts with which he ought to be acquainted, I think it is due to him from me that I should make a further attempt to say what I desire to make clear. The National University of Ireland, according to the newspaper report, has a heavy building debt of over £30,000, a load under which it staggers into inefficiency. The National University of Ireland has no building debt whatever, not even one penny of a building debt, for the best of reasons, that it has no buildings and never had. It occupies offices in Merrion Square—two private houses rented at a yearly rent. The heavy building debt is on University College, Dublin, by virtue of the necessity of creating a building for lecture halls and for scientific research. The building in Earlsfort Terrace is the building which cost £155,251 9s. 3d., although we cut down the buildings as far as the scheme was concerned to what could be built at the time we gave the contract for £68,000, so as to leave us the margin between £68,000 and £110,000—the amount given by a generous British Government for building and equipment—for equipment. I tried to show clearly what is the absolute truth about this matter, that that building debt, for which we are paying £1,750 5s. 6d. interest, is not a thing for which University College ought to be held responsible. It arose inevitably out of war conditions, and is a war debt. Yet we have to approach the bank managers from time to time, explain, beseech, entreat, harry, and do all sorts of things that debtors have to do with bankers, and out of our feeble resources pay, when we can, the interest on the overdraft. Now, it is not University College, Dublin, which has

an overdraft of £7,000, as the newspapers said. The overdraft of £7,000 is the indebtedness of the National University of Ireland.

ACTING-CHAIRMAN (Mr. Fitz-Gibbon): Does the Deputy think the Minister for Finance would rely on the newspapers rather than on his statement of yesterday?

Professor MAGENNIS: I do not believe the Minister for Finance will rely on either statement, as I have had the disadvantage of being a member of a deputation to him recently on behalf of University College, Dublin, and I know the attitude he took up—a resolute and determined attitude. I am trying to reach the public through the Press, because I believe sincerely that if the people of Ireland were aware of the true facts of the situation they would not tolerate its continuance. It is not for the sake of being reported, it is for the sake of the facts being reported, that I am speaking to-day. I believe that this ignorance about the financial situation ought to be dispelled. I am not speaking on behalf of education as education; but, let me add, I tried to expound this doctrine, which needs no exposition in any civilised country of the world beyond our shores, that commercial expansion, industrial expansion, all the life material of a nation, depends to-day more particularly upon the scientific laboratories of its Universities. In those centres of research are brought into being the embryo of the future prosperity. I am saying nothing whatever about civilisation, about the spiritual side of life that comes from higher studies. There are two functions in every University College—the function of research and the function of teaching. Research is a costly thing. Every progressive nation to-day has realised that while it puts millions into its submarines and into its big ships of war, and into its militarism, that all that is to protect its commerce and its industry, and that these for their existence and expansion are dependent upon the money it invests in scientific research. That is why all these countries are putting so much money into University Colleges. I gave you the example of Edinburgh University, whose Professor of Chemistry before the war had a salary of £1,750. In 1918 they began to set up a chemical laboratory for 400 students at a cost of £250,000, whereas we were pro-

vided with £110,000 with which to build and equip, not a chemical laboratory, but a chemical laboratory, a physical laboratory, a biological laboratory, a physiological and all the other laboratories, and also set up what we have not got—libraries and rooms for ordinary teaching purposes. Deputy Professor Thrift told you of the woeful state financially into which the great rich institution of Trinity College has fallen. I can add to that statement of his that the two great Universities of ancient date, and of apparently unlimited resources, Oxford and Cambridge, had to apply for State assistance at the very same time as Dublin University. A Royal Commission was set up to investigate their claims, just as a Royal Commission was set up in 1918 to investigate the position of Trinity College. The Trinity College Commission recommended that £49,000 per year additional was necessary for it to carry on its great work. Its income, as we calculated it from the returns given to the Trinity College Commission of fifteen or sixteen years ago, was something like £80,000 yearly. Mr. Asquith was President of the Royal Commission that enquired into the position of Oxford and Cambridge. Only a few months ago that Commission reported that a sum of £72,000 yearly would need to be given to these rich Universities. The University of Oxford has 39 colleges and halls in the city of Oxford. It is one of the noted places of the world for exquisite beauty of architecture and for all the outside appearance of wealth of resource for education. Any man who wants to be impressed with the level of civilisation to which England once was able to attain merely need go to Oxford and Cambridge to be impressed for all his life. If Oxford and Cambridge and Dublin University required these additional resources, what about a poor institution like University College, Dublin? I dwell upon it, as it is centred in the same city as Trinity College or Dublin University, and the academic rivalry, the friendly emulation for learning is keener between University College, Dublin, and Trinity than it is between Trinity and any of the other colleges of the National University.

Now, the County Councils understand very well what it means as regards agriculture to have it based upon scientific education. They understand the needs.

[Professor Magennis]. in roadmaking for surveyors and engineers, and they understand the value for their administration purposes of educated men in their membership. The General Council of the County Councils only a month ago unanimously passed a strong resolution in favour of a further State grant to relieve the necessities of the University Colleges, more particularly University College, Dublin. Now, there is one side of education—physical education—for which Trinity College ministers in a very remarkable degree. For that purpose University College, Dublin, is only able to provide fields rented out at Terenure. Where are our students housed? The vast majority of the students that come to Dublin live in wretched lodgings in the streets and the by-ways of the South Circular Road. I do not dwell upon details of that sort, because the public imagination would take hold of that fact and would imagine, because of the material poverty, the type of the education to be had in University College, Dublin, was equally inferior. But that is the misery of the situation.

We have a staff of Professors, year after year, by good-will and devotion, giving their services for inferior remuneration, providing at smaller fees than are charged elsewhere higher education for 1,300 students, with very little pension to look forward to, and no regard either for the service they have given to the nation or any consideration for their own future. We have that as a sore in the body educational. It is miserable to stand up here always pleading for money.

ACTING-CHAIRMAN: I think I must relieve the Deputy now. He has had a considerable time upon this Estimate, and he has now spoken for more than a quarter of an hour.

Sir JAMES CRAIG: I would like in a few words to endorse the statement made by Deputy Thrift, that while Trinity College is sadly disappointed at the amount of the grant, still they recognise that, in the circumstances, the Government has treated them very fairly, and they have accepted it distinctly with gratitude. It is a sad thing, however, to contemplate that as far as the finances of Trinity College are concerned we will be in a worse position for the next three years than before the War, so that there must be a curtailment

of work, and a distinct stoppage of the extension of equipment and laboratory work to which we were looking forward. But we distinctly look forward, in the next three years, to a change in the attitude of the Government towards us, because we hope the State will be in a more flourishing position than at present, and we will look forward at the end of three years to getting a grant that will put us in a position which I think Trinity College deserves.

Mr. JOHNSON: There is another aspect of this University question which I would just like to raise. I am sure it will excite Deputy Magennis to make even a more eloquent speech this time in defence. I want just to draw attention to what seems to me to be a rather noticeable failure on the part of the University or the University Colleges and their staffs to influence the public life of the cities outside their ordinary collegiate duties. I have in mind the work of some of the other Universities in extending University Education of a more popular kind, and I think that some of the desires of the Minister himself and of the representatives of the Universities could be attained if they would take a more active part in stimulating or generating a desire for the advancement in education in a wider sense the average man and woman who know nothing at all about Universities.

Now, there are in every community a considerable number of men and women who are not able to take the keen, close interest in University activities that the more fortunately situated are, who are reachable by such means as extension lectures, tutorial classes, and the like. In the Universities in some places they actually take the initiative in organising this kind of work, and while there have been difficulties in this country, and while attempts have been made, as a matter of fact, and failed, nevertheless it occurs to me that the duty falls upon the Universities to help to popularise these and to make the people feel that Universities are really playing a part in their lives and in the civic activities surrounding them. I know where the staffs are too small for the work to be done that the opportunities are very limited, and that it is asking men and women professors to do more than it is

possible for them to do sometimes. Nevertheless that excuse is not a sufficient one to account for the failure of the Universities to enter into the common life of the non-University public.

The University extension movement created a tremendous change in the public life of England. It has had several offshoots, to which the Workers' Educational Association and, indirectly, the Labour Colleges, Correspondence Schools and other activities of that kind can all trace their origin. The plan of popular lectures, discussions, excursions and visits to places of interest, historical and archaeological and the like, under the guidance of a competent Professor who can speak not only learnedly but interestingly, would have, and has had, a tremendous influence upon the civic life of the community where that has been accomplished and carried through. I suggest, for the consideration of those who represent the Universities, that that is an aspect of the matter which would deserve their consideration, and, while I would not like to go so far as to say that the Vote should be reduced, or that some of these grants should be withheld until the Universities have risen to their opportunities in that respect, I would suggest it is well worth their consideration; and that before many months have passed they should take the initiative, and see if anything of that kind could be done in the cities where their Colleges are, and perhaps in other towns as well.

Now, I want to ask the Minister to put matters right in respect to a more sordid question. It is alleged that University College, Cork, is paying salaries to substitute Professors at the same time that it is continuing to pay the salaries of Professors who are now doing other duties, and are drawing pay on account of their other duties. I am asking the question, and I do it because I want the Minister, if possible, to say that it is quite inaccurate and unfounded. The late representative of the Saorstát in Washington was due to receive a sum of £2,100 out of this year's Estimate, and the assertion is made that he continues to draw his regular College salary, and that at the same time a substitute, another Professor, is also paid for doing the work which the representative in America is paid for. In the case of the Professor of History in University College, Cork, it is also alleged that he is in a

similar position; that, while drawing his pay as a Professor of History in that College, he is also drawing a salary in respect of a high post in the Army, and that another Professor is doing his work in the College, and is also paid out of College funds. These statements are made on good authority, and it is said that they are statements of fact which cannot be controverted. If they are facts I think something wrong has been done. If they are not true, then I am hoping that the Minister responsible will be able to give an emphatic denial to these allegations.

Professor MAGENNIS: To begin with the last item first, no Minister is entitled to interfere with any of the University Colleges, and I pray that that may ever be the case; that in any development in this country the autonomy of the University Colleges shall be preserved. Interference of this kind has been protested against firmly, and with manifest success, in England and Scotland. At the time when the Treasury was being drawn upon for munificent support, the Chancellor of the Exchequer in England, in giving the additional support, himself declared that in no circumstances would he tolerate interference with the autonomy of University institutions. If there is anything wrong in the administration of the Colleges I do not dispute the right of anyone to raise a question about it in the Dáil, in so far as it is to the Vote of the Dáil that these institutions owe their annual income.

Now, as regards University College, Dublin, which is the only one of the three constituent Colleges for whose internal administration I can speak, we have lent to the service of the State the Minister for Education, who draws not one cent. of salary from University College, Dublin. We have lent also to the service of the Dáil its distinguished Chairman, who is one of our assistants to the Professor of French, and he receives not one penny from University College during the period of his services here. Another of our assistant Professors was lent to the administration of the State to be the Secretary of our representative in London, and from the moment that he left he received nothing from our fund. Therefore, our withers are unwrung in so far as the Dublin College is concerned. On the other point, Deputy Johnson hesitated to move a reduction of the Vote. That re-

[Professor Magennis.]

minded me of the old surgery where the surgeon, even though the patient might be suffering from anæmia, applied the usual treatment of bleeding. Naturally an able man like Deputy Johnson, sympathetic as he is with educational development, would hesitate to recommend bleeding the College for whose anæmic condition I have been speaking so much at large.

I want to correct a misapprehension. Because Trinity College, with its magnificent architecture and its superb college park, standing in the middle of the city, is associated in the public mind of Ireland with University Institutions, there is an impression that Universities are for the rich. A palace is for a king, a castle is for a nobleman, and a university, which resembles these housings, in point of architecture and environment, is supposed to be of the palatial character associated with the privileged classes. So, from year to year, the belief grows and is spread that all that the University ministers to is the upper classes, just as the little noisome, noxious, ill-ventilated hut is for the children of the poor—for the working classes. That is the national school; this fine building, with its costly equipment, is for the children of the rich. However that might have been true—though, indeed, it never was true—however, there might have been the semblance of truth attaching to it—it is certainly not true to-day. It is not true of Trinity College any more than it is true of University College, Galway, the poorest in point of material resources of our Constituent Colleges. There is a great deal to be said in favour of bringing the University to the door of those who cannot go to the door of the University, by University extension. But, before I speak of that, I should like to say to Deputy Johnson that he must not allow himself to be deceived into imagining that the life of the people is not touched beneficially by the operations of University Colleges, even though the adult is not coming into University Colleges. Because—and this is a thing which it would require hours to expound, and I have only seconds at my disposal—education, like religion, or, if you prefer the opposite illustration—like irreligion, Deputy Figgis suggests—I was going to say epidemics or diseases—spreads, and operates in the most mysterious way

over inconceivably wide areas. Education of the higher type acts not merely upon teachers who, in their turn, teach others in other schools, but it operates through journalism, through writers who are educated, through the public speaker, and through a thousand channels. It is notorious in the history of civic development, that the presence of a University in a city means an uplifting and a raising of the general life, in the best sense of the word "life," in the community. Still I do hold, with Deputy Johnson, that it is very desirable to have University extension lectures. University College, Cork, devoted a good deal of energy to evening lectures for the people, and before the National University existed the old University College—the College of the Royal University—had afternoon lectures as one of its great features. They were very widely attended, and I myself, as a Fellow of the Royal University—and the only Fellow—lectured every evening, except Saturday, for eleven years, for two and a half hours—Monday, Tuesday, Wednesday, Thursday and Friday, for eleven years, until it turned my hair white. The Minister for Finance calculated my age at sixty, on one occasion, deceived by my white hairs. Before I was twenty-one the grey was beginning to appear; no wonder it should become absolutely white, teaching in the poor buildings of the old University College in Stephen's Green, night after night, for eleven years. I am proud to say that some of the best graduates of the Royal University came out of those evening classes. We have re-instituted these evening classes in the University College of the National University. How many people attend? There are some people who have got an ignorant idea that they must have a University degree, as if the having of a degree were everything, and having attended lectures, and having their thought directed into certain channels, and opportunities provided for them for completing their studies, were naught. Because we cannot permit the duplication of lectures by the University Professors at night, so as to qualify those who attend the night classes for degrees, the public will not come to them, which demonstrates that what the public want is the degree, which is naught in comparison. They do not want the education. The reason why we have not the University extension lectures on a wider

scale in University College, Dublin, is because we have not the money. Deputy Johnson does not realise, perhaps, that we have not got the staff for the ordinary purposes, because we cannot pay the salaries. We set up a Faculty of Commerce to train students in Business Methods, Accountancy, Banking and Commercial Law, to fit them for commercial enterprises. That costs us a great amount of money. That was not a Faculty of the older Universities. We have also Engineering; we have Medicine; we have one of the largest medical schools in Europe, from the point of view of numbers; but, as I pointed out last evening, we cannot house those students, we cannot provide them even with lecture halls. The Professor of Anatomy has to duplicate, and sometimes triplicate, his lectures. Instead of one lecture being heard in the lecture hall at once, he has to divide his class into sets and take them set by set. So hampered, limited and restricted in that way, it is very, very difficult for us to do those things which we would like to do. However, I am grateful to Deputy Johnson for his support. Even when he indicates a development towards a new line of work he is helpful, because he has accentuated this unhappy fact that the work that the Colleges—more particularly our College in Dublin—can do for the nation is frustrated by the narrowness of their resources.

LIAM DE ROISTE: I yield to no Deputy in appreciation of certain work which has been done by the Universities, but I am rather surprised that Deputy Gorey has not risen on this occasion to ask, as he asked in connection with the National teachers, whether we are getting value for the money that is being spent on University education in this country. I do think that the Dáil and the general opinion of the country would support any plea for money to be spent on University education if it is quite plainly understood that the country is getting value for the money that is being spent on it. But I submit that the course of University education in the past in Trinity College, and even in the National University to some extent, has been to prepare persons for emigration rather than to fit their education to the work of this country. I would put this question: What have the Universities done for agriculture in Ire-

land? After all, agriculture is the basis of the economic position of the country, and one may well ask, in that respect, what have the Universities done? I think it must be admitted that very little has been done. I know that something has been tried in University College, Cork. But, speaking generally, what have the Universities done to improve the education of the ordinary people of the country? What have they done in scientific research, and what can the ordinary person learn from the Universities in Ireland, and from the men associated with them, of the resources of the country and how to develop them practically? I do think that for the money that is being spent at present or for any increased expenditure—I would heartily support a proposal that the Universities should get an increase—we should get certain practical returns in the direction of the development of the country. Instead of turning the minds of so many University students—very capable men and very learned men as some of them have proved when they went abroad—the Universities should turn the minds of their students to their own country. In that very connection the Government itself has had to take back to Ireland from England its technical adviser on certain subjects.

It is quite time that the Universities should turn the minds of their students to the development of this country. What Deputy Professor Magennis has said, that a University and University education have a certain leavening effect, is quite correct. But I think it would have been more true of the situation as it is in Ireland if he had said it *should* have a leavening effect here. He mentioned, for instance, the influence which it has had on journalism. He should have said the influence which it *should* have had on journalism in this country, because, judging by the ordinary daily paper that we get, I think everybody will admit that there is very little evidence of University education in what we are compelled to read in the newspapers in this country at the present time. I submit that that leavening which should come from the presence of Universities can only be obtained when the general trend of the Universities is towards an interest in the affairs of the country. The fact that the Universities have been divorced from the general life of the country is, in my opinion, because the

[Liam de Roiste.]

general trend of education was not towards the life of the country. I do not mean exactly in the case of extension lectures or anything of that description; but in scientific education and agricultural education, and so forth, the trend of mind of those interested in the Universities, and of the men of education in the Universities, has not been towards development in this country, but towards development elsewhere. That is really the cause of the divorce to which I have alluded. After all, the University Extension Lectures appeal only to a certain class and to a limited number of persons. If the Universities are to take their proper place, as they should take it, in educating the men who will be the leaders of this country politically, scientifically, agriculturally, in journalism, and in every sphere of life, as the Universities in other countries do, then the minds of the men in the Universities themselves must be turned towards this country and towards its development. It must not be their policy, as it was the policy of many of the Secondary schools, to prepare students to take places in England or America or other countries. The duty of the Universities and the duty of the other schools is to turn the minds of men to Ireland alone, and to the development of Ireland agriculturally and otherwise. I think it will be admitted that the amount of money included in this Estimate is a very small amount to spend on University education. If the case is really put up that the Universities are worth the money, I feel perfectly certain the Dáil and the country generally will endorse an increased Vote for education.

Mr. ALTON: I think the Deputy who has just spoken would learn much if he took part in the inner life of a University and saw something of the work that has to be done in the ordinary University by the Professor or Lecturer at the present time. You are offering too little and asking too much. You cannot expect a University understaffed, as our Universities are at present, to conduct at once the work of teaching and the work of research. I would gladly see every University in this country conducting research in the widest, most generous and most liberal way. But it is really impossible. Professors to-day with large

classes, frequently duplicating their lectures, are physically incapable of devoting such spare time as they have got—and I do not know where they get the spare time, except they take it out of their sleeping hours—to research. A certain amount of research is done. But, again, as Deputy Professor Magennis said, it is a question of money. Can you give increased staffs to the Universities? At present they are understaffed. As regards the college which I have the honour to represent, Deputy de Roiste suggested that we educate our students largely for export. Perhaps that is so in regard to certain professions. They did not find an opening in this country. I hope—in fact, I am confident—that that will be changed in the future. There was a suggestion that Trinity College does not take an interest in the well-being and in the national aims of this country. That I controvert, and I controvert it very strongly.

Deputy de Roiste asked what did the Universities do for agriculture. As long as I have been connected with Trinity College we have been struggling to get money for agriculture. We had a Professor—my first pupil—in the Agricultural School, Professor Barnes, and now he is a distinguished member of the service of which the Minister for Agriculture is head. But, again, we wanted money for research there. We wanted money to continue that Professorship. We could not expect to get another person as self-sacrificing as the first Professor, to give up all his time for a miserable sum of, I think, £150 a year. As regards Extension Lectures, that is the ambition of every University—to get into touch with its countrymen as widely as it can. We have struggled to do so, but again we are short of funds, and we find it very difficult to carry on our ordinary work. Every year we have had lectures, but it is very hard to get men who have been working all day to work again the best part of the evening. They have to prepare their lectures, and there is a lot of clerical work connected with the duties of their Chairs. Until we can enlarge the staff of our Universities I do not see how we can carry on our Extension Lectures on any very wide scale. I would gladly see it done. For the last few years we have had in Trinity College a Summer Course for special bodies like the National School teachers, but that means that we

have had to employ special lecturers. We can only do that in a limited way. I am really only endorsing the views of Professor Magennis. He put the case very clearly before you. I do not think that the country is not getting value for the money expended on University education; in fact, knowing the subject from the inside, I think it is getting surprisingly good value. I can only speak for Trinity College. I know one Professor of Trinity College who is doing the work done by eleven men in Oxford. We have to duplicate Chairs, Lectureships, Readerships, and until we can enlarge our staff—I am sure the same applies in the National University—I do not think we can undertake any great, fine schemes of Extension Lectures such as I, together with Deputy Johnson, heartily desire.

Mr. O'CONNELL: Deputy Magennis called attention yesterday to the fact that in any properly organised system of education the University should be the centre and the foundation, and that it was a fallacy to think that in educational organisation we begin at the bottom, at the lower type of school, and build up to the university. I agree thoroughly. I agree that it is at the top, at the university, we should begin, but if that is to be the test of the soundness of a scheme of education, then our system of education must be held to be most imperfect, for there is no proper connection between the universities and the other schools, especially the National Schools, which cater for the vast majority of the children. When, some years ago, an agitation was being carried on here for the establishment of a National University, one of the strongest arguments used was the necessity for such a university in order to train the teachers who would be engaged in the ordinary schools. I think it was the late eminent Bishop of Limerick, Most Rev. Dr. O'Dwyer, who made great use of that argument, in the course, I think, of his evidence before the Commission which sat before the National University was instituted. To the ordinary man it seems a strange thing that our universities train our doctors, engineers and commercial men, but that they make no proper provision for the training of our teachers. This matter has been agitated for some considerable time, and representations have been made by people

who think that this should be one of the chief functions of a university, and recently a scheme was agreed upon between the representatives of the teaching body and the Senate of the National University. In order, however, to have that scheme put into operation, the consent and the co-operation of the Government was, and is, necessary. Some months ago the Government were approached as to the possibility of putting this agreed scheme into operation, and I would be glad to know from the Minister for Education what are the intentions of his Department with regard to this particular question, and what progress has been made, if any, towards putting into operation this scheme.

During the course of this debate several references have been made to the advisability and the necessity of bringing the university into closer touch with the people. I suggest that this is one of the ways, one of the chief ways, whereby the benefits of a university can be brought right down to all the people, not directly, but indirectly. Some people who give only superficial thought to this matter may say: "Oh, well, the man or woman who teaches what Deputy Gorey would call A, B, C, D, does not want the benefit of a University training." To that I can only answer that all who have given the matter deep thought and grave consideration are agreed that it is in these very grades and in these very classes in the elementary department of our schools that the highest form of training is necessary. I do strongly urge on the Government the necessity for initiating a scheme whereby the benefits of the university will come, in this way, indirectly to all the people.

Professor THRIFT: Deputy O'Connell is, no doubt, aware that such a scheme as he has been speaking about has been working for two years in the most promising way in Trinity College, Dublin, in connection with a certain number of primary school teachers in training.

Mr. O'CONNELL: Yes, I should say I am glad to acknowledge what Deputy Thrift has said, though it is not exactly such a scheme as I have been speaking of. Some provision is made by Trinity College, undoubtedly, in connection with one of the training colleges, and while it is something, it is not exactly the same class of scheme as I was referring to when

[Mr. O'Connell.]

I spoke of the scheme which was agreed upon between the Senate of the National University and the teaching body.

Mr. DARRELL FIGGIS: I think it will be agreed that Deputy Professor Magennis has done a very great service, not only to the Universities and to the Dáil, but to the country, in raising the matter in the way in which he has done. It is not the first time that this subject has been raised by him here, and one would like to feel that it would be the last time, because it should achieve the purpose that he had in mind in ventilating this matter, if this question could now be settled finally. I think it could, and I think it lies in the power of the Minister for Education, when he comes to deal with this Vote—which has assumed now the magnitude of a national peril, not only in this, but in other countries, and which is receiving attention in other countries—to indicate the lines on which it is his intention, and the intention of his Department, to have such an inquiry made into the whole case of the needs of Universities in Ireland, with a view to meeting that need, in order that the Universities may be enabled to fill that place in the national life which the Universities themselves desire more than any others.

It has been very significant to note in the debate on this Estimate how every speaker, dealing with the matter from different points of view, have all converged on that central question. Deputy de Roiste stated there was some evident gulf between university life and national life. If there be that gulf it is a gulf that exists not at the will of the Universities, which desire only to bridge it. I was very much struck by a remark by Deputy Magennis, in which he stated that it was never the case that the Universities were the habitat merely of the rich. That is historically true, and it leads to a further reflection that, I believe, is proper to a consideration of this kind. It is this, that in the past in all countries it is the Universities that have been poor in funds that have not extended their benefits to the people at large. It is the Universities in the past in England, France and other countries that have been rich, even at times when University education was held to be a perquisite of the rich, that made some effort ahead of their time to reach those who

might be helped by their more fortunate position to have University education extended to them. I think that is a matter which it is proper for us to remember at this moment, and for this reason, if University education is to have the influence and effect such as it should have over the country at large, then in the case of the Universities at the present their present impoverished condition will have to be attended to. In England since the war, as we were reminded, and as is a matter of public knowledge, a Special Commission was appointed to go into the whole question. I think we have had what I might call a glut of Commissions, and we could easily dispense with Commissions in that sense in the future, but some form of inquiry is very evidently necessary if we are to be saved from the position of having a slender Vote of this kind brought before the Dáil and subsequent Dála year after year, and the same complaints made, and the same discussions proceeding without getting some definite conclusion to what is everywhere admitted to be an evil. This can only be done by some special, prompt inquiry, such as the Minister could set forth either by agreement with the Dáil or, I believe, under a minute of his own hand. I suggest that the question Deputy Professor Magennis has raised is one of such importance not merely to the Universities and the national life through the Universities, through the functions that the Universities should have in that life, that the best thing that could be done to summarise all that has been said here would be if the Minister could see his way to give an assurance that it is his intention to make special inquiry into this matter in order that a special allocation of funds might be available in the future to remedy this evil. I have no desire to go into contentious matters, but I have been contrasting this Vote with the Vote a few pages later on—the Vote for the Army. Obviously the Vote for the Army, now that peace has come, is going to be a Vote that will diminish from year to year, from month to month. From week to week, much less from month to month. It will be decreasing, and one would like to feel that it would be a celebration of that stability of the State which has been brought about if the University grant could be increased, I will not say in an inverse ratio to the other decrease, but in some

happy and necessary degree in order that the University might be able to do that which they themselves desire to do more than any others, and that is to give opportunities to all persons, no matter how poor, in order that they may, if I might quote the words of the English poet, be enabled to have "Not merely joy, but education, in the commonality spread."

MINISTER FOR EDUCATION (Professor MacNeill): I envy the position of Deputies in various parts of the Dáil who can stand up here freely to advocate the claims of university education, to point out the utterly inadequate resources that are at present at the command of our university institutions. It would be very pleasant, in a sense—at all events, more pleasant for me—to stand alongside of Deputy Magennis and Deputy O'Connell and the other Deputies who have spoken and to raise my voice in chorus with theirs asking for more liberal—not more liberal, but more rational—treatment of university education. I should like to see all the benches filled when the opportunity would come to me to speak out my mind freely on this matter. I should like to see representatives of labour, representatives of practical agriculture, and the representatives of practical politics, all here in order that they might hear, if not how eloquently, at all events, how forcibly, I might be able to present the case that has been both eloquently and forcibly presented, apparently to me, by others. There is a prejudice, and it has found expression, perhaps in a more humorous way than any other way, in this Dáil, the prejudice against the man with the university education, and even in a more concentrated form against the university professor. I think once or twice a smile has broken into audibility here when allusions have been made to university professors. If a university professor, or any other highly educated man, is not a practical man, it is because he is not well enough educated.

There is certainly no reason in the world why education should unfit a man for public duty or public responsibility. To begin with, take the point or aspect of the subject raised by the Deputy who spoke last. He put it to me that I should produce some plan to meet the needs and to institute some inquiry. Now, these university institutions are manned by

men who have been carefully and elaborately chosen for the purpose of carrying them on. It is because that choice has been made on certain lines that these institutions are, and it is generally conceded they ought to be, autonomous institutions. They are capable of doing their own work, and capable of bringing about their own desirable development if they are provided with the necessary resources. And this question of how to meet the need, and this question of instituting inquiry, ought, therefore, to boil itself down to the simple question of providing those institutions with the necessary resources. If not, if there is anything wrong in these institutions, if those who direct their operations are not competent, why then the criticism should be directed in that quarter. But it has not been alleged that they are not competent, nor has it been alleged that they are unwilling. I, from my experience, believe that they are both competent and willing to do the best they can do in the interests of the whole nation. It is not to be supposed for a moment, that those who engaged in teaching in the Universities are unwilling to extend their teaching to any extent. They are not only willing, but they are eager. If you put it on the lowest possible motives, the man who teaches, and who believes he is capable of teaching, and has something worth teaching, if he had not anything else but his personal vanity, would desire to have an audience for his teaching. If he had something more than his personal vanity, a zeal for knowledge and for the propagation of knowledge, he would be always willing to agree to give his teaching freely to any audience that would care to have recourse to him.

That is my answer to Deputy Johnson with regard to the Extension lectures. It is my answer in part to Deputy O'Connell with regard to the training of teachers, and to Deputy de Róiste with regard to the teaching of agriculture and other subjects of the kind. Those who can teach, as a rule, wish only for the opportunity of teaching, and the business of the public, and the business of the State is to provide them with that opportunity. Now we cannot blink the material facts, the real facts. The evil is there. It has been eloquently exposed; everyone recognises it. Why is it there? A year and a half ago there were high hopes, I think, on every side that this country was going to enter

[Professor MacNeill.]

upon a period in which the resources which it possesses, the resources which were then at its command, would be used for the public benefit, for the National benefit, for progress, for advancement, for raising the confidence of people of this country in themselves, and for raising their name and their reputation in the world. A calamity befel us. I think really a large part of that calamity was due to defective education. When I see the justifications that are put forward for it, I am sure it was based on defective education.

But there is the state of the case. The resources of the country have been wasted, the credit of the country has been impaired, and I am now in the unhappy position of being at once an advocate, not for liberal, but for rational treatment of education, and at the same time bound to stand up for what I think is the imperative need of this country at present, that is to see the establishment of its finances and of its credit, on a sound footing. It is a terrible difficulty and a painful difficulty. I am perfectly certain that for me, who have to regard it here, speaking on one aspect, and for those who have spoken, who have to regard it in one aspect, if it is painful to us, it is ten times more painful to the Minister for Finance, who, from morning till night is compelled to face that in one hundred aspects. A foolish idea entered into people's minds that this Government and this Ministry could be shaken by attacking the resources and the credit of the country. Now, any person with any acquaintance with politics would know that a Government and a Ministry could go on so long as it had the means in its hands to defend itself; but that cruel blow that was struck went to the heart of the country. It was not a blow against the Ministers. It was not really a blow against a political policy. It was not a blow against a particular political state of things, but a blow struck direct against the most profound interests and against the future of the country. And that we have to repair. There is no prospect of right and rational treatment of education, University education, or any other branch of education, except that prospect be founded on a sound financial condition and a sound condition of credit for the country.

I cannot escape from that. I am bound to state it, and everyone who has any interest in education, I trust, will have that view of the case, and those facts of the case always in mind. The best thing we can do for the future of education here in Ireland is in every way we can to build up the resources of the country. I hope that the representatives of practical agriculture will bear that in mind; I am sure they will. I hope the representatives of Labour will bear it in mind. I do not enter for a moment into the controversies, sometimes taking a physical form, that we read about in the papers between one agricultural interest in Ireland and another, and between one economic interest in Ireland and another; but I do say those conflicts increase these difficulties. I think it is incontrovertible that those controversies, when they take a form holding up in any way the development of the resources of the country, increase those difficulties and increase them, especially at this difficult time, enormously. Many other points were brought forward, and, I think, in most cases the points that were brought forward by one Deputy were met in the excellent statement made by some other Deputy.

Two particular matters were raised, one with regard to what the Universities are doing for agriculture and for the benefit of the country generally and not for external countries, and the other with regard to the training of teachers. It is unfortunate, but it is the fact generally, that the application of University work and University research to the great industry of agriculture, the greatest of all industries, is very, very far behind-hand not only in Ireland but, I think, everywhere.

I think Universities are only at the beginning, and they have not yet found the way to do what undoubtedly they will find the way to do—to exercise a beneficial influence on that great industry of agriculture. I hope the agriculturists here will have faith in them and that they will recognise that just as the Universities can benefit engineering and chemistry and all those other practical economic pursuits, so also they can benefit agriculture, and confer very great benefits on agriculture. As regards the mould of education as to whether it benefits this country or not, it has been my conviction for a long time that the

best way to secure that education will be beneficial to the country, and that those who are educated in our Irish institutions will devote their energies afterwards to the benefit of the country is to give them an education containing elements which will make them more keenly interested in Ireland than in any other country in the world. That has been my own particular aim in the matter of education for years. I know I have often been met in the past with the argument that the teaching of the Irish language, or the teaching of a subject which I myself teach when I am free to teach, Irish history, are not subjects of great economic importance. I say they are subjects of profound economic importance to this country, because an education which implants in those who receive it a deep and affectionate interest in this country is of supreme importance, and the things which characteristically and distinctively belong to it cannot fail to produce a generation and generations of students who will be devoted heart and soul to the interests of the country.

With regard to the training of teachers and Government co-operation, I will repeat what has been impressed on you so often: that our Universities are autonomous and that Government co-operation can only take the form of approving of the schemes which they adopt, and providing the additional expenses which such schemes would incur. I quite agree that one of the principal duties of Universities—perhaps the greatest of all duties of Universities—is to provide teaching material, to provide trained teachers. It does not necessarily mean that all the special work of training special teachers for special occupations must be done by Universities, but it does mean that the Universities throughout must have in view the teaching profession, and the interests of the teaching profession and the benefit and the improvement of the teaching profession, and I do hold that the Universities can and ought to take—

MOTION FOR LATE SITTING.

The PRESIDENT: If the Minister would pardon me intervening, I desire to move under Standing Order 10 "That the Dáil do sit later than 8.30 p.m." There is a motion by Deputy Johnson which was arranged to be taken at 7

o'clock. Perhaps, he would not mind it coming on at 7.30, and allow the debate on the Estimates to continue until that time.

Mr. JOHNSON: I quite accept the proposal.

Motion put and agreed to.

DEBATE RESUMED.

Professor MacNEILL (resuming): I do hold that the Universities can and ought, as far as they are able, to take a direct part in the training of teachers. I hope and trust that we shall see a development in that direction. I might not personally feel enthusiastic about this particular scheme or that particular scheme, but that is not necessary. If Universities bring forward schemes for the training of teachers, and if it is possible for the Government with its resources, doling them out in due proportion, to finance these schemes, I would be content with a very moderate claim to criticise or to modify. I would have the fullest confidence that the Universities themselves, with due deliberation, would shape schemes in connection with the training of teachers that would be entirely advantageous and beneficial. There again as I say the main point with regard to Government co-operation means providing the financial resources. I presume that, at least, a proper scheme for the training of teachers in direct association with the Universities would mean an extension of the term of training by one year, and that again would mean an increase of 50 per cent. or thereabouts, in the financial provision already made for the training of teachers. That brings me back to the starting point. We are up against the same difficulty. Not this Government, not this Ministry has been defeated, but this country has been defeated—only for the time, of course—defeated for the time in doing things which are necessary, which are valuable, which every patriotic man and woman ought to desire to see done and to see the country enabled to do. The country has been defeated for the time being. I will end with a plea which I would like to be able to address to everyone of my fellow-countrymen. There is hardly anything more patriotic than an Irishman or an Irishwoman could aim at bringing about at this present juncture of time, hardly anything that would more fully prove their devotion and loyalty to this country than—in whatever way each one finds it

[Professor MacNeill.]

possible, and with all the enthusiasm that a right, patriotic endeavour could inspire in us—to restore this country to the position of credit, of command of resources, of financial prospects and financial actualities, on which it should have embarked a year and a half ago.

With regard to a point upon which I was asked to say something, Deputy Magennis quite properly said that I am not accountable for the manner in which University Professors are remunerated, or the manner in which they discharge their duties. I made such inquiries here as I could on the spot, and I am able to give this answer. Professor or General James Hogan—for whom those who know him as a student and a teacher as well as those who know him in his more recent capacity as an able military commander have nothing but the highest respect and esteem—receives his ordinary salary from University College, Cork, and pays for a substitute. The only money he receives from the Army is the amount which he pays to his substitute as *locum tenens*.

Vote put and declared carried.

OIREACHTAS.

The PRESIDENT: I beg to move:—“That a sum not exceeding £67,060 be granted to complete the sum necessary to defray the charge, which which will come in course of payment during the year ending on the 31st March, 1924, for the salaries and expenses of the Oireachtas.” (A sum of £28,000 has been voted on account).

Mr. DAVIN: I think this is perhaps an appropriate occasion to raise a matter which many Deputies have already discussed in this Dáil, and ask the Minister for Finance to say if anything can be done in connection with it. I refer to item (b) covering travelling expenses of members—£5,500. I am certainly under the impression that that sum could be considerably reduced.

An Ceann Comhairle resumed the Chair at this stage.

Mr. DAVIN: It would effect a saving to the finances of the State and convenience members if we had something in the nature of season tickets conceded to members. On the last occasion this matter was raised the Minister promised to go into the matter with the Transport Department. I would like to know if any advance has been made in the direc-

tion of securing season tickets for members to their constituencies. Has the matter been placed before the Railway Companies through the Clearing House, and have the railways definitely refused to meet the Government in this matter? I fail to see any good reason why the Railway Companies in a matter of this kind could not meet a Government Department without compromising anything, especially as they make concessions to cattle traders and other sections of the community. I would be glad to know if any representations have been made, and if it is a fact that the Railway Companies, to whom representations have been made, have definitely declined to make any concession.

CATHAL O SHANNON: There are one or two items under “E” on which I hope the Minister will throw some light, dealing with salaries, wages and allowances to officers and staff of the Oireachtas. There is one item, “Counsel £1,200 a year inclusive; one librarian and one assistant librarian.” I do not know whether this is provision for the future. At the moment I do not think that these offices exist. I do not exactly know what is meant by provision for Counsel. I know that provision is made for legal advice through one of the Assistant Clerks in the Seanad, but I do not know that that position or anything similar to it is at the disposal of the Dáil.

AN CEANN COMHAIRLE: It is provision for an examiner of Private Bills when that matter is settled.

CATHAL O SHANNON: I see. There is also a librarian and an assistant librarian. Another matter that was raised before, and which I think it necessary to raise again, deals with the provision for an Officer of Communications between the two Houses. I can only presume that the officer is presumably engaged in some other capacity, because it seems to me that the services of an officer of this kind are not necessarily much availed of. I do not know if he is the channel through which communications, such as they are, pass between the two Houses, and as I say I can only come to the conclusion that he is perhaps engaged in some other capacity. If he is, then his remuneration should come under some other Vote. I am not at all objecting to that, or to the Officer personally, or to

his having sufficient salary for the post, but I do not see exactly why it should come in under this Vote.

The PRESIDENT: With regard to the first matter mentioned by Deputy Davin, in connection with season tickets, I had intended to take up that matter direct with the Companies, but, having regard to the fact that this is a small Dáil, and that a proper estimate of attendances and so on was not possible, I thought it better to leave it over until after the Election. I would then be in a position to speak for a very much larger number of persons who would be affected, and also in view of the fact that we were in communication with the Railway Companies on another matter I did not think it advisable to go into the question. With regard to the matter raised by Deputy O'Shannon, there is a librarian and an assistant librarian. The Librarian is "Sean Gall" (Mr. Kenny), who was in the Customs and Excise, and was formerly stationed at Goole. He is a historian of very considerable repute, and is at present engaged in the Castle. We had intended to get the library over here, but as our stay is limited, as far as these buildings are concerned, it did not appear to be good business to transfer the library for a short period and then remove it again. It is the intention, although the matter is not yet finally decided, to make what is known as the Castle Library available for the Oireachtas. Mr. Kenny has been there since his transfer from Goole. I think Deputy O'Shannon will probably know the name pretty well and will be satisfied with the appointment. As to the Assistant Librarian I think the Deputy is also acquainted with him. He was the Librarian of the old Dáil, Alderman Kelly. We had some money available from the old Dáil for the purchase of books, and he has been successful in getting some very valuable works. That particular service is defective just now by reason of the fact of not having premises for the Dáil and Seanad, I mean what we would call a permanent or semi-permanent location for them. If premises were available I think there would be no cause of complaint with regard to the services of the two officers in question. As to the Counsel the Ceann Comhairle has answered the point that was raised.

AN CEANN COMHAIRLE: I do not

know if the Deputy understood quite clearly. It is intended that there will be Counsel to the Ceann Comhairle who will also be examiner of Private Bills. When this Estimate was prepared the figure £1,200, inclusive, was inserted to cover such an appointment, should it be made. No such appointment has been made. As was reported from the Committee on Procedure to the Dáil some time ago, Standing Orders for Private Bills are being prepared, and a fee will be paid to a barrister for assistance in preparing and drafting Private Bills. Since no Private Bill Orders are actually in force, and since no Private Bill business is being done, no examiner has been appointed. Therefore the figure is one that is merely intended to cover the appointment should the appointment be found necessary within the financial year.

The PRESIDENT: With regard to the Officer of Communications, I have nothing to add. He has no other position than that of Officer of Communications between the Dáil and Seanad. I do not know that I can say any more than I have already said with regard to the particular post.

CATHAL O SHANNON: With reference to the explanation in regard to the Librarian and the Assistant Librarian I am perfectly well satisfied, but I think it well that the statement that the President has made with reference to these two gentlemen should have been made. So far as I know from their reputation in the past they are quite competent and on no personal grounds could I have any objection to them at all. But I think it is well we should be told that there was a library being made available for the Oireachtas and that it was in competent hands.

I quite recognise the difficulty of putting it at present at the disposal of the Oireachtas on account of the want of premises. I am not satisfied with regard to the position of the Officer of Communications, because it does not seem to me that there is anything like sufficient work for an appointment of that kind. At all events there has not been sufficient work for an appointment of the kind; I do not know whether there will be in the future or not, and I think it is not satisfactory from the point of

[Cathal O'Shannon.]

view of public finance that a post which merely means occasional, and very occasional, handling of communications as between one House and the other should be created at a salary like this. I am not at all satisfied, but I am satisfied about the other positions.

Mr. DAVIN: Some time ago I read a statement by the Minister for Finance regarding the sacrifices made by members of the Seanad, and I quite agree to a certain extent. In that statement he indicated that there were some members of the Seanad who returned their £30 per month. I have calculated the amount and I find that provision to the full amount for all the members of the Seanad is made in the figure of £20,830. I take it, therefore, that every Senator is drawing his full allowance of £30 per month; or is it that provision is made in case of emergency? I would like also to know if every member of the Dáil, including some who very seldom attend, is drawing his £30 per month. I think it is quite unfair that members of the Dáil who very seldom come here should think it advisable to draw this £30 from the State without giving service to the State for that figure. I hope such a position will not arise in the case of any of those who seek election to the next Dáil, and I should like to know how it is such Deputies think it reasonable that they have rendered service to the State for which they take that particular amount.

The PRESIDENT: I beg to draw the Deputy's attention to the fact that although the Constitution provides for the payment of members the Dáil makes provision only for expenses. I know one member who did not attend here very often, but who is put to very much heavier expense than any other member.

AN CEANN COMHAIRLE: Before putting this Vote I think I should tell the Dáil that some time ago the Dáil appointed a Committee consisting of The President, An Cathaoirleach of the Seanad and myself, to go into the question of the appointment and remuneration of members of the Oireachtas Staff, and it is expected that a Report dealing with that will be before the two Houses next week. It has taken a considerable time, for a variety of reasons, but the

Report will be before the Dáil and it will be open, of course, to discussion. It is really upon the basis of that Report that a good deal of the moneys asked for in this Estimate will be actually expended in the course of the Financial Year.

Vote put and agreed to.

EXECUTIVE COUNCIL.

The PRESIDENT: I beg to move: "That a sum not exceeding £4,899 be granted to complete the sum necessary to defray the charge which will come in the course of payment during the year ending on the 31st day of March, 1924, for the salaries and expenses of the President and Office of the Executive Council."

The sum of £2,500 had been already voted on account.

Mr. O'CONNELL: Perhaps the Minister will explain more fully the reference in the footnote (a) as to the position of the Assistant Secretary; it does not seem quite clear.

The PRESIDENT: In that particular case the Assistant Secretary, who is Acting Secretary for a great number of months, was formerly a Civil Servant in the Department of Agriculture, and the amount down here is the difference between the salary he would have had as an official of the Department of Agriculture and what he gets as Assistant Secretary. That is the reason for the distinction drawn there. In the other case the difference between the two Votes, which is a remarkable difference, is due to the fact that the salary of the President is down in this particular Vote for the first time. I do not think it was down at all last year, and was probably included in the cost of the Ministry of Finance. Coming in there now it tips the balance in the wrong direction.

Question put and agreed to.

TRANSPORT DEPARTMENT.

The PRESIDENT: I will now take the Transport Department, and move: "That a sum not exceeding £10,778 be granted to complete the sum necessary to defray the charges which will come in the course of payment during the year ending on 31st day of March, 1924, for the salaries and expenses of the Transport Department of the Ministry of Industry

and Commerce, including certain payments in connection with Railways.

£6,000 has already been voted on account.

Mr. HUGHES: On this Vote I desire to take the opportunity of calling attention to certain matters which I think should be rectified. At the present time, amongst traders and others all over the country, there is a great deal of dissatisfaction with regard to the length of time goods are held up at the different ports by different railway companies. The railway and steamship companies try to put the blame on the Customs' officials. I had a certain specific case which I took up with the Revenue officials, and from the correspondence that I had with them, and the explanations they gave, I am satisfied that they were not to blame in that particular case. It is an appalling thing that goods should be held up, sometimes perishable goods, for a fortnight or three weeks, and in my opinion a practice of that kind should not be tolerated. The railway and steamship companies act as carrying agents for people to whom goods are consigned. They are supposed to take delivery of the goods and to pay the Revenue duties on them at the ports, and I think, in all fair play and in order that business may be facilitated throughout the country, they should be made carry out that arrangement. It strikes me that, in most cases, the delay which occurs is due to the fact that the companies concerned are trying to carry on with the old staffs, and they have neglected to make provision for the prompt execution of the additional work which, as carriers, they have undertaken to carry out. I say that that is not treating the public fairly, and something should be done to have the complaints that are made by the people of the country rectified. I have only cited one case, of which I have personal knowledge, but many others of a similar nature have been brought to my notice within the last month or two. I know of one case where goods were consigned five weeks ago, and they have not yet been delivered to the consignee. The companies act as agents for the people, and it is up to them to have the necessary warrants presented in time at the ports so that clearances can be promptly made. I do not suppose that the Minister for Finance is the Minister to deal with this particular

matter. I am sorry that the Minister for Industry and Commerce is not here, because I brought the matter to his notice some time ago, and he was to look into it. I raise it now for the purpose of getting the Ministry and the Dáil to see that, when companies give undertakings to carry out certain duties, they will be compelled to do so, and that they shall not be allowed to penalise the trading community, as they have been doing, in the matter of delays for some time past.

Mr. DAVIN: I have nothing to say with regard to this particular Department, except to complain that its powers to deal with railway companies, even in regard to such matters as those mentioned by Deputy Hughes, seem to be practically nil. As I understand it, the Department is more or less a statistical one. Certain representations may be made to the Minister for Industry and Commerce, and these are passed on to the Department to communicate with the railway companies, but, I think if the Department is to serve any useful purpose, or if there is to be any genuine return for the money spent under it, its powers will have to be considerably enlarged and made more effective than they are at present. I have been looking forward for some time for a statement of policy from the Government benches with regard to the future of the railways. In fact, we were promised that statements made by Ministers in the beginning of the present year, regarding such a policy, would be put into operation before the Government went out of office, or before the dissolution of this Dáil. I am not going to anticipate what is going to happen as a result of the rumoured early General Election, but if the Government fail to give effect to the promises they made early in the year in regard to this particular matter, they will have to answer the people for their failure to do so. In my opinion, if there is to be any scheme of re-organisation with regard to the railways of this country, this Department will have to be re-organised, and its powers considerably enlarged. That must be done if the Department is to be put in a position to exercise greater powers over the railway companies if these are to remain privately-owned concerns, and if there is to be any avenue by which the public can get at the railway companies in regard to such matters as the rates

[Mr. Davin.]

they enforce, and the application of remedies for dealing promptly with traffic in cases such as those mentioned by Deputy Hughes. We are faced with this fact that the Northern companies have already given a considerable reduction in rates for certain classes of traffic, particularly agricultural traffic, while in the Free State area the railway companies have done nothing in that respect. If we had a proper Transport Department, with greater powers than the present Department is invested with, I think something might be done to compel the railway companies to meet the reasonable complaints of the trading community. I hope, if the present Ministry intends to proceed with its railway policy, it will take these things into consideration, and that whatever Ministry may succeed it in the very near future as a result of the Elections, will realise the responsibility that will be thrown upon it in regard to railway policy, and also as regards setting up a Department that will be able to satisfy the demands of the trading community in everything that concerns the commercial interests of the country. There is also the question of the power of this particular Department or Ministry to deal with such matters as conditions of service, etc. I merely mention this matter so that the Government, between now and the time it proposes to give effect to its previous promises with regard to railway policy, may consider the advisability, in the interests of trade, of the travelling community and in the interests of the users of the railways and of the workers employed on them, of enlarging the powers of the Department so that the taxpayers may be enabled to get some return for the large sum of money voted in respect of the services it is supposed to render to the country as a whole.

Mr. LYONS: I wish to make one or two remarks on this Estimate. Owing to the high freight charged by the railway companies there is an immense lot of motor traffic on the roads. This is causing a great deal of damage to the roads, especially in Westmeath. People living as far down as Galway remove their goods by road. It would be well if the Minister for Industry and Commerce would look into this matter with the railway companies with a view to having a reduction of the freight charges.

I would be glad if the Minister would give me an idea of the wages, including bonus, of the messengers. There are rumours that the wages of the messengers are to be reduced very soon. I am sorry the Minister for Industry and Commerce is not here, but perhaps the Minister for Finance might answer. Because if there is a reduction of wages, it would only mean a further strike, and I know the Minister would not like that.

Mr. O'DONNELL: Reference has been made to carrying companies, and Deputy Davin has asked could the Government make any statement with regard to the policy in connection with transport. I would like to know what policy all Deputies in this Dáil will adopt towards any party that holds up the ordinary traffic of the country, whether at ports or otherwise, thereby causing a big lot of damage to the rest of the community. I would also like to know, where the normal wage is given, whether everybody has the same right to work.

AN CEANN COMHAIRLE: Deputy O'Donnell is becoming a master at irksome rivals.

Mr. DARRELL FIGGIS: I notice that the Assistant Minister for Industry and Commerce is not here, and it makes it somewhat difficult, dealing with these Votes in the absence of the Minister responsible. However encyclopædic the knowledge of the Minister for Finance may be, I am sure he will admit there are certain limits to it.

The PRESIDENT: None whatever.

Mr. DARRELL FIGGIS: A statement was made by the Assistant Minister for Industry and Commerce, the other day, and statements have appeared in the Press, dealing with the position of the amalgamation of railway lines and railway systems within the Saorstát, and those that communicate from the Saorstát to the Six Counties. That matter was raised several times in this Dáil and it was promised that fuller information would be available when we reached this particular Vote, 56, dealing with the Transport Department. I think it would be for the general information if we could receive a fuller statement on that matter now, more particularly in regard to one aspect of it. There have been

suggestions that any amalgamations that might occur of different systems would leave one or other of the railway services in the South outside, and that one of them—the one that was mentioned was the Dublin South-Eastern—might be included within the control of a vast railway system outside the Free State. That is a matter that, obviously, would be very much to the injury of the Free State. It would be to the injury of the Free State if there was a single mile of Irish railways controlled by any directorate that was not resident in Ireland. I think that would be agreed as a sound principle that ought to be adopted in regard to such amalgamations. Inasmuch as difficulties have arisen—at least one is confidently informed in the Press that certain difficulties have arisen, and the Minister for Industry and Commerce some time ago informed this Dáil that, in the event of failure, it would then be the responsibility of the Ministry to put up a definite scheme, and to bring in legislation on the lines of that scheme, and compel adherence to it—I think that the promise made that information would be given to us on the head of this Vote should now be fulfilled. We should have some fuller information than has yet been given to this Dáil on this very important matter.

The PRESIDENT: With regard to the question raised by Deputy Hughes, I will undertake that the Ministry will investigate any specific complaint of delay. There have been some cases of complaints. Investigations have taken place, but the complaints have been more or less of a general character. If specific instances are furnished we will undertake to deal with the matter in a way that will give satisfaction, I think, to the Deputy.

In regard to the question raised by Deputy Davin, the functions of the Transport Ministry in regard to railways cover Finance and Statistics, Public Safety, Appointments of Baronial Auditors, Rates, Fares, Facilities, Liquidation of the Control Agreement between the railways and the British Government. Owing to the unsettled conditions of the railways, the Department has been largely kept engaged since its transfer to the Ministry of Industry and Commerce on special matters regarding the functioning of the railways, their future policy and ques-

tions arising out of wages and conditions of service.

With regard to the matters raised by Deputy Figgis and Deputy Davin, they have not yet reached the point at which it would be to the interests of either the railway companies or the Government to make a statement on them. We know that negotiations, suggestions, recommendations, and so on, take a very considerable time. If the railway companies cannot come to an agreement that undertaking that was given by the Minister will have to be carried into effect, but we believe that it is better still to spend a little more time in seeing if it be possible to come to some accommodation. In the first place it would be more satisfactory, and in the second place it would probably speed up the ultimate settlement of the question more than if we had to come along with a cut and dried scheme of our own.

The Department's functions also include various matters in connection with tramways, railways, canals, docks and harbours, including the receiving and examination of accounts, returns, Sinking fund, powers to reduce rates in certain circumstances, appointment of auditors, power to impose penalties, and also matters of public safety. I am also informed that increased powers for the Transport Department are desirable, but they can only be conferred on them by new legislation.

Deputies, I am sure, appreciate the difficulty of introducing new legislation, or even dealing with some of the many complex problems that we have by reason of the shortage of time and the necessity for going slowly to avoid mistakes. It is better not to make mistakes. They are not easily remedied, and they may have very bad reactions if they are made.

With regard to the question raised by Deputy Seán O Laidhín, the scale of pay of established messengers is 25/- a week, rising by 1/- to 29/- plus the Civil Service bonus, which is equivalent, at the current rate of bonus, to 47/5, rising to 56/- per week. Unestablished messengers receive uniform and overtime in respect of hours in excess of forty-eight per week. A limited number of subordinate employees, fire-lighters, etc., are on a scale of 18/-, rising by 1/- to 22/- plus Civil Service bonus, equivalent at the present rate to

[The President.]

34/2 and 41/9. This is the scale we received when we took over from the British and we have paid that since.

Mr. LYONS: I suppose you intend to pay it?

The PRESIDENT: If we have the money we will continue to pay it.

Mr. DAVIN: Arising out of the President's statement, the Railway Companies do not seem to have come up to the requirements of the Government in regard to agreement on a particular scheme; yet they appear to have in mind the operation of that scheme, by making certain alterations and changes in their staffs. They are, in fact, making certain arrangements for the dismissal and removal of members of their staffs. It would be very desirable, in view of the statement which has been made, that representations should be made to the Railway Companies that they should not carry out this scheme of removal until the scheme is cut and dried, and until such scheme has met with the approval of the Government. It is very unfair that while the Railway Companies have not come to any agreement on a particular scheme they are anticipating it at the expense of the staff in certain matters. I would like that the Minister, or the Transport Department, should make some recommendation to the Companies that no changes should take place in the personnel of their staffs, and no reduction of staff should take place until the scheme is cut and dried and until the Government has adopted it.

The PRESIDENT: I would like to say, though I suppose Deputies will hardly believe it, that since the statement was made by the Minister for Industry and Commerce not a week has passed that I have not been in conference with him and the Assistant Minister and officials of the Department on the subject, trying to work out a satisfactory scheme. I do not think that there is any subject has absorbed so much of my time, if we exclude the question of finance. I think, while there is a great deal to be said for what Deputy Davin urges, that it would not be well if we were to allow ourselves to be sidetracked by any detailed considerations when the big problem is yet unsolved.

Mr. DAVIN: I do not think the Min-

ister caught exactly what I said. I tried to make it quite clear that although the Railway Companies have failed to bring forward any scheme that would meet with the approval of the Government, they have tried, nevertheless, to anticipate it by making certain changes and alterations in their staffs. In many cases where vacancies have occurred, through death or otherwise, such vacancies have not been filled. I do not think that any scheme which may come into operation should be anticipated at the expense of the staff. This is a policy which, to my knowledge, is causing a good deal of irritation. It should be dropped until such times as the Companies and the Government have agreed on a particular scheme.

Vote put and agreed to.

The PRESIDENT: I move that we report progress.

THE DAIL RESUMES.

Progress reported.

DEVELOPMENT OF INDUSTRY— REGULARITY OF EMPLOYMENT (DEBATE RESUMED).

Motion by **Mr. Johnson:**—

"That it is an essential condition precedent to the peaceful development of Industry and Commerce in the Saorstát that the workers should be guaranteed regularity and permanence of employment, and payment for their work at rates sufficient to maintain them and their families in decency and comfort; also, that it is the opinion of the Dáil that the Government should call into conference representatives of employers and workers organisations, for the purpose of devising the best means and methods of providing such regularity and permanence of employment, with satisfactory payment for work done.

AN CEANN COMHAIRLE: The motion on the paper was proposed by Deputy Johnson on Friday last. An amendment was moved by Deputy Whelehan, the Assistant Minister for Industry and Commerce. In lines 2 and 8 to delete the words "be guaranteed" and substitute therefor the word "have," so that the motion if amended would read "That it is an essential condition precedent to the peaceful development of Industry and Commerce in the Saorstát that the workers should have regularity

and permanence of employment, etc. Deputy Johnson was speaking on the amendment and moved the adjournment of the debate. He is therefore in possession now.

Mr. JOHNSON: When I spoke on Friday last, having just the verbal statement of the Minister in my mind regarding the amendment that he proposed to my motion, I did not appreciate at its true value the effect of the amendment which he proposed, and I spoke rather too emphatically in my repudiation of that amendment. I think it is unfortunate that he was not willing to accept the resolution as it was moved, but I desire to say that the amendment which he proposed did not justify my repudiation of it in the very emphatic words which I uttered. Nevertheless, I desire to argue that the motion as moved is better than the amendment of the Minister. The effect of the amendment would be to alter the motion in the sense that whereas I desire to say that there should be a positive assurance given to the workman—that he should have some guarantee of permanence of employment and payment for work done at rates sufficient to maintain him and his family in decency and comfort—the Minister prefers that the Dáil should say that the workers should have regularity and permanence of employment and payment for their work at rates sufficient to maintain themselves and their families in decency and comfort, and he is prepared to say that the Government should call into conference representatives of employers' and workers' organisations for the purpose of devising the best means of providing such regularity and permanence of employment with satisfactory payment for work done.

In the course of the discussion it rather seemed, from the statements that were made by one or two Deputies, that the motion involved primarily a State guarantee of permanence of employment. What is implied in the motion is that the organisations of workmen and employers, the economic organisations of the country, should endeavour to devise means and methods of achieving the end which may be generally considered to be a desirable end, and that quite conceivably those organisations may themselves devise such ways and means without the intervention of any State authority; nevertheless, failing such ways and

means being absolutely watertight, that there should be, as a co-relative guarantee, a State guarantee, backing up and supporting a voluntary guarantee of the organisations of employers and employees. Now, Deputy Magennis implied, and Deputy Whelehan stated in so many words, that the proposition was an idealistic one, and was impracticable because it was idealistic. Well, I demur. I say it is not impracticable, and though it may be idealistic at this moment, it is an ideal which can be realised, and it is incumbent upon us to make an attempt to realise it. There are organisations of employers and employed which have, as a matter of fact, devised ways and means of ensuring permanence of employment in the sense that is referred to here—regularity of employment—and I contend that such organisations in all industries can be arrived at if the will is present. I think that it is unfortunate, most unfortunate, that Deputies should get it into their heads that anything which means a real improvement on present conditions is idealistic, and because it is idealistic it should not be striven for. We are reminded too much of Mr. Gradgrind, "facts, facts, facts," as though the only facts were the sordid ones, as though there were nothing better in life than the sordid things, the things that drive men down.

I want to ask the Dáil to agree with me that there is in humanity something better than the mere greed and acquisitiveness upon which the political economists of the last century based their theories, and upon which, unfortunately, most newspaper leader writers, members of the Dáil, and, I think, Ministers, base their views of political economy, the inexorable economic laws which are supposed to be absolute, and must inevitably lead to the degradation of humanity. I deny the inexorable nature of those laws; I deny that they are laws except on the assumption, which is the assumption of those economists who are looked on as the spiritual fathers of modern commercialism, whose economics are based on one single assumption, that the only constant factor, and therefore the only factor, that can be considered in dealing with human affairs is greed—acquisitiveness. Deputy Magennis said that the doctrine I had expounded "is utterly opposed to the doctrine of class warfare, which is the weed that flourishes

[Mr. Johnson.]

when the materialistic conception of life is allowed to replace the proper conception of human values," and that I had dissociated myself clearly and unmistakably from those who espouse the class war doctrines. Deputy Magennis knows, I am sure, but I think it well that other Deputies who are, perhaps, not so conversant with the philosophy which propounded this doctrine of the class war, should know that it is not a doctrine which has to be preached or advocated; People, looking at economic and social life from a certain point of view, contend that it is by the method of class struggle that Society has developed, and I say this, that if the economics advocated, in the daily newspapers by newspapers leader writers, by shipowners in their manifestoes, by Deputies in the Dáil, by Ministers, are true, then class war doctrine is true. If it is true that the one permanent factor which dominates all the rest of human impulses is this factor of acquisitiveness and greed then class war doctrine is the true one and a correct description of the methods whereby human society has developed and will develop. I do not believe in the foundation of that theory. I do not believe that greed is the only factor, that the other factors being accidental and impermanent, need not be taken into account, and therefore I believe that some other method could be developed than the method of class warfare. But any other method cannot be developed than the method of class warfare if we are going to rely constantly and insistently at all times upon the laws of competition, upon essential greed as the impulse which drives humanity forward.

When Deputies ask us to repudiate or to discountenance the doctrine of a class war they are asking us to dispute and discountenance one aspect of the every day doctrine which they are preaching in every walk of life, in every aspect of economic and social life, for they tell us that you cannot expect employers in this country to pay wages at a higher rate than employers in a rival country are paying; that you must reduce the conditions of labour, the price of labour and wages to that of your rivals, because the economic laws compel you. If that is the case, if these laws, so called, are inexorable, as we are told, then inevitably men are driven to combine to obtain

possession of these material sources of power, to protect their interests, and to satisfy that fundamental urge which is presumed by the political economists, who are the fathers of these ideas, to be the one dominant and permanent factor which can be taken into account in discussing economic theories. I believe that while society is based, as it is today, upon these laws of competition—that acquisitiveness, the desire for gain, is the one purpose and intent, the end of so much popular teaching—that there is no other end to that doctrine than the doctrine of the class war. Recognising that, I subscribe to that doctrine of class war, so long as we are forced to work under that system of society which has its foundation, and its rise, in this desire for gain, this urge for acquisition. I want the Dáil to agree that there can be something better, that we can, in this state begin to introduce into the economic and social life of this country from this place, the right place from which such ideas should be generated, a better idea to rally to the growth of society, the higher human impulses, and to keep greed and acquisitiveness in its proper place, subdued and subordinate to something better. We are told that the country cannot afford to continue, it cannot prosper while the present rate of wages, the present conditions of labour exist, that the Irish workman has been able to resist the downward trend of wages, that because wages have fallen in England, Scotland, Germany and Belfast, that, therefore, Irish wages must come down, in the same ratio, or something equivalent. That is asking us to accept a doctrine that though your political rulers have gone, your economic rulers remain, and that you must adapt your mode of life, your conditions of poverty, to the mode of life and the conditions of poverty which exist in other countries. We have tried to encourage men to think, during the last few years, that a political emancipation would give an opportunity for this country to work out a social emancipation for itself, and we are not prepared to accept the view that there shall be a common level, and that the conditions of the lowest will ultimately determine the conditions of the workmen here. I do not believe that it is necessary. I believe that this country can, if it will,

feed, clothe, house and make comfortable, so far as material wealth can do so, its present population, and much more than its present population, out of its own soil, out of its own resources, and I believe that if we are going to adapt our economic life to the circumstances determined by other countries, then we have failed utterly in the attempt towards freedom. When English conditions are quoted, one remembers that in certain industries in England, in some of the greatest industries, the conditions of the workmen are actually much worse to-day than they were pre-war; that the rates of wages are lower, or as low, as they were in 1914, whilst the cost of living is considerably higher; and that not only are the rates of wages lower but the earnings are much lower than they were in those days, while the cost of living is higher, and we are asked to consent to certain conditions here because of those conditions there.

I think it is fallacious to suggest, as the Minister suggested, that with an extension of present activities, with a mere burst of business enterprise, you will gradually absorb the unemployed and solve the problem. You may temporarily, but you will not solve the problem. England is very much more prosperous in the way of production and material wealth per head than Ireland is likely to be for a long time. The problem of unemployment is very grave, and even in the best of times there it has been contended by the so-called captains of industry, and by the more responsible political economists, that the industrial machine depends upon a margin of not less than 5 per cent of unemployed. We know that in America unemployment alternates every few years with over employment, boom following slump and slump following boom. The mere attempt to meet this problem by encouraging commercial activity is not going to solve it. I would ask the Dáil to think of this problem, and its solution as they would think of the permanent problems of life, not casually, not simply echoing the things that have been said for a generation or two by English newspaper writers, politicians, statesmen and economists, all of which things and words have been spoken and written in relation to life under English conditions in England, and industrial conditions in England. I say that to follow on that course is fatal to any hope of a real change in the social

life of Ireland, or a real improvement in the social life of Ireland. I have seen very often—in yesterday morning's paper for instance—reference to the necessity for reductions in wages and changed conditions because of the rivalry of other countries, and that such reduction was required as a preliminary to decreases in the cost of living, and that with such adjustments the cost of living in Ireland would inevitably and automatically fall. I want to say here what I have said at more length in a letter to the newspapers, that so far as the workman's life is affected, so far as those things which enter into the average workman's household are concerned, as detailed in the official reports of the Cost of Living Committee, the reduction of wages in Ireland is going to have a very small effect upon the cost of living of the workman's family. The President does not read the papers. Therefore, I will risk repetition at least of the conclusion of that communication—

The PRESIDENT: I saw that all right.

Mr. JOHNSON: The conclusion is that even though the workmen engaged in the handling, the preparation, the distribution within Ireland of those articles which go to make up the workmen's budget were to work for nothing, the reduction in prices of those articles would not be more than thirty per cent., would be less, as a matter of fact, than 30 per cent., and that if we were to assume a general reduction all round of 20 per cent. in wages the effect upon a household budget, if all the saving were transferred to the consumer in reductions in price, could only mean a reduction of 6 per cent. Now, think of what that means to the workman's family—think of how that is going to appeal to the workman. He knows, as a matter of experience, that wages rose long after prices rose, and he knows, as a matter of experience, that prices fall very slowly and laggardly after wages have fallen. The ultimate end of the example I quoted was with a 20 per cent. reduction in wages, the workman who has been receiving £4 would have his wages reduced to £3 4s., whereas the commodities that that £4 hitherto has been expended on, would only be reduced by 4s. 9d. to £3 15s. 3d. That is to say, with wages of £4 he has been able to buy £4 worth of commodities; henceforth with reduced wages of £3 4s. he would be 11s. 3d.

[Mr. Johnson.] short in buying the same commodities, that is a reduction of 14 per cent. in his purchasing power. That is how it appeals to the workman. I think I can quite confidently challenge any examination of those figures with you. That is how it appeals to the workman, and it is the reason, in my opinion, why the policy of this country should be directed towards a high wages policy, and concurrently an imposed obligation that these high wages should be spent in increasing proportion upon Irish-made and Irish produced commodities.

We may have to find means of imposing that obligation upon the producing elements of the community by tariffs, or by other means. I do not want to prejudice that question, but I say that for the real prosperity of the country we should rely rather upon high levels of payment, even though high prices continue. I was tempted to follow some of the arguments of Deputy Gorey, but I shall refrain and shall pass them merely by saying that I was not attempting to deal with any single industry or any kind of dispute. I do not want to localise this question in any way. There are many causes which lead to labour disputes, purely economic sometimes, psychological sometimes, hot weather sometimes; but from a good deal of experience and very close inquiry I am convinced that 75 per cent. as I said last week, of the disputes that arise from year to year, have their primary cause in the sense of insecurity, the fear of unemployment. Now, if you could remove the greater part of that fear, you would remove a great part of the causes that lead to disputes. You will not remove them all. I do not pretend for a moment that you are going to remove all the causes of disputes by removing the fear of unemployment; but you will, I am sure, remove the greater portion, and I believe in doing so you are laying the foundations of that prosperity which the Minister for Education spoke of in an earlier discussion. We are told many times, and truthfully, that this country requires great development in mechanical appliances. I believe that is true; but the workmen have resisted the introduction of mechanical appliances. They have resisted it in Ireland as they did in England, Germany, France, and in fact every country in the world. They will resist it in self-defence unless you can promise some assurance that the in-

troduction of these appliances is not going to deprive them of a living, and it is not enough to point to the development in those countries which have been most proficient in the use of mechanical appliances. The workman sees one machine doing ten men's work, and he sees that nine men are going to be deprived of the opportunity of a livelihood. There should be no need for it. The introduction of a machine ought, as a matter of fact, ease the labour while insuring the men of a better living; but, unfortunately, what happens now is that the machine deprives him of a living, and there has to be a period of lag before he and his family can retrieve the loss which the machine causes.

What I desire is that the Dáil should express itself in favour of guaranteeing workmen, who are willing to work, the opportunities for work, or, as an alternative, if we do not so design our economic system, that we should provide them with means of living. I believe it can be done, and with good-will, by the collaboration of the organisers of industry with the operators in industry. It is the function of the organisers of industry to direct the courses of industry to provide for the needs of the people; that is their function.

The profit they make should be incidental, and should not be the objective. I want to see if it is possible to bring these people together and to let them set before themselves the duty of devising means and methods of securing this end, which the Dáil is asked to declare to be a necessary end if there is to be a peaceful development of industry in this country. The Minister says in his amendment that the words "he guaranteed" should be deleted, but he is prepared to say that it is an essential condition precedent to the peaceful development of industry and commerce that the workers should have regularity and permanence of employment, and payment for their work at rates sufficient to maintain them and their families in decency and comfort. He is also willing to say that it is the opinion of the Dáil that the Governments should call into conference representatives of employers and workers' organisations for the purpose of devising the best means and methods of providing such regularity and permanence of employment with satisfactory payment for work done. If the Dáil prefers the amendment to my motion, I shall think

that the Dáil has done good work, and the passing of such a motion, even as amended, and the putting of it into operation at the instigation of the Minister, may be the means of laying the foundations, at any rate, for a better social life in this country for the next few years.

Mr. DARRELL FIGGIS: I desire quite briefly to support the amendment moved by the Assistant Minister for Industry and Commerce, and the suggestion that this resolution should be adopted with a substitution of the word "have" for the words "be guaranteed." I do not think that Deputy Johnson has put forward anything that is idealistic. I think that the sentiments he expresses, in a very large measure are sentiments that would be supported in many parts of this Dáil. I agree that the ideal expressed in the resolution, as amended by the Minister, is an ideal, in his own words, which can be realised.

An Leas-Cheann Comhairle took the chair at this stage.

Mr. DARRELL FIGGIS: In order that it should be realised, there are certain elements that, I think, would require more stressing. I agree with Deputy Johnson that the idealistic quality of a man's mind is necessary. There are many conceptions necessary, but there is one that is absolutely essential, and it is that of the efficient conduct of business in this country. The resolution, as it was originally, proposed that the workmen should be guaranteed regularity and permanence of employment. It is impossible to guarantee regularity and permanence of employment. There are elements in the calculation that may make it utterly impossible. Let me give two instances that I speak of with a certain degree of knowledge, in one case having made investigations and in the other case it was a matter that came before me in another connection. Take the dairy industry in Ireland. Are the workers engaged in the dairy industry to be guaranteed regularity and permanence of employment and payment for work at rates sufficient to maintain them and their families in decency and comfort? That they should have it is one thing, but can they be so guaranteed? That means, if the guarantee is to be forthcoming, that the industry must be

conducted efficiently. Is it being conducted efficiently?

It is well known, and Deputy Johnson will know it from the results of the inquiries that he conducted on a Commission on which both he and I served together, and from the inquiries of a Commission that he now belongs to, that I am stating what is the truth when I say that of the dairy cattle in this country you might safely take it that between one-half and two-thirds are losing for every day they are being kept. In other words, through lack of proper method of conducting that industry, that industry is not maintaining itself on an economic basis. If the industry is not maintaining itself on an economic basis, through whatever fault, how can it be argued that workmen or anybody in that industry can be guaranteed things that industry cannot give, because it is not being conducted properly? Take another case. A friend of mine to whom I was speaking a fortnight ago is the owner of a very large factory in Dublin. He employs a large number of hands. What salaries they get I do not know. I did ask him if he could let me have a certain piece of information that it was necessary for me to procure in connection with certain other inquiries. He makes a certain machine, and I wanted to know what the cost of manufacturing that machine was at a certain stage of its manufacture. I was astounded and astonished, for he answered me that he kept no costings at all in his manufacture. He is a large manufacturer, employing a very great number of hands turning out a large number of machines every year, and he could not state what the cost at each stage was, or what the proportion of labour was in the finished product! He made a guess that inasmuch as he drew certain moneys from month to month for himself, and inasmuch as the actual profits were always sufficient to cover that, that his factory was yielding him a sufficient and handsome profit, and all further inquiries and costings methods were unnecessary. But the situation might at any moment change for him. If it did change for him he would not be able to track where in his process his business had failed. He would not be able to effect the economies that were necessary. Surely, it is obvious as a matter of common sense that any business that is being conducted in that way cannot be held to guarantee to any persons em-

[Mr. Darrell Figgis.]
 ployed in it, either workmen or employers, a sufficient wage to keep them in decency and comfort. They should have it, but they cannot be guaranteed it. It is a remarkable fact that the two most prosperous industries in Ireland—two of the industries that are paying the kind of wages that are required or stipulated for in this resolution—are the two that are being conducted on a proper system of costings from beginning to end. I do think that Deputy Johnson has served a practical purpose in bringing this resolution forward, if only to draw attention to this very element in the working out of the social state that he desires.

If we care to have that state we will require to have efficient handling of business in Ireland. The agricultural industry, as well as every other form of industry, should be conducted in a modern scientific fashion, as is done elsewhere. Then it might be time to speak of guarantee. It is certainly impossible to speak of a guarantee now. Deputy Johnson said that the ideal expressed in the Resolution either in its original or amended form, is one that can be realised. I have stated that I believe it can be realised. If it is to be realised, not only must there be a certain aspiration of mind, but there must also be a certain ruthless efficiency of method, and that is not everywhere apparent. While it is not apparent, and while the machinery is not available in order that you might be able to estimate exactly how every given industry stands at a given moment, as can be done in large undertakings in other countries, we can go no further than the Resolution, as amended by the amendment put forward by the Assistant Minister for Industry and Commerce. I feel, therefore, that the amendment is necessary if the Resolution is to be made practicable. When I use the word practicable I do not use it in the sense that Deputy Johnson spoke of the use of that word, when he quoted Gradgrind. I am using it in another sense altogether. If life is to be properly conducted it must be efficiently conducted. Nothing that is inefficient can be said to be practicable. It is because an impossible demand was being made in the original form of the Resolution, and because the amendment moved by the Assistant Minister for Industry and Commerce has reduced it down to

what can be adopted, and what may be held up as a possible and practicable ideal, that I will support the amendment, and will support the Resolution in that amended form.

Mr. E. DUGGAN: It is evident that in the industrial community there are strongly held views amongst all parties about questions now brought forward touching wages and conditions of labour. These questions are of first importance to the whole country, and it is always to be deplored that they cannot be settled without stoppage of work. Sometimes it appears stoppage of work cannot be avoided, but of all times for a stoppage to occur it will be generally agreed that the time when the country is about to terminate an era of disturbance and to elect a new Government is the most unfortunate. We are at present suffering from a stoppage at the ports, the effect of which on the country's economic position is necessarily serious. On Friday the Minister for Industry and Commerce will endeavour to find a way out of the deadlock at the Conference between the parties, and I do not think it would be unreasonable for the Dáil to express the view, that the parties should come to that conference as men on whom a great responsibility rests, and who should not leave the Conference without having arrived at such an adjustment between their respective points of view as will recognise the genuine difficulties of both sides and the need for mutual concessions. Besides the trouble at the ports there are rumours, in some cases more than rumours, of extensive industrial trouble. Questions may be involved that are not easily settled, but I would suggest that none of them can be of such extreme urgency as not to permit of a little longer time for their examination. I would suggest that the parties should consider whether a more fitting time to examine them will not present itself, when the period of disturbance we are just passing through has terminated, and when a new Dáil can apply itself to those social questions to which for some time it has not been possible to pay very much attention.

Amendment put and declared carried.

Motion, as amended, put and declared carried.

The Dáil adjourned at 8.25 p.m. until Thursday, 26th July, at 3 p.m.

DÁIL ÉIREANN.

DEARDAOIN, 26ADH IUL, 1923.

(Thursday, 26th July, 1923.)

Cromadh ar obair an lae ar a 3.15 p.m. Bhí An Ceann Comhairle, Mícheál O hAodha, sa Chathaoir.

CEISTEANNA—QUESTIONS.

[ORAL ANSWERS.]

CARRICK (DONEGAL) SUB-POSTMASTERSHIP.

PEADAR S. MAC A. BHAIRD asked the Postmaster-General whether he is aware that in a recent appointment of Sub-Postmaster at Carrick, Co. Donegal, a candidate was selected for the position who had not got a knowledge of Irish; whether he is aware that this village is the centre of one of the most Irish-speaking districts in Ireland, and whether such an appointment in the Gaeltacht was made with his knowledge and consent.

POSTMASTER-GENERAL (Mr. J. J. Walsh): In the official application form furnished by the candidate referred to, the answer given to the query concerning his knowledge of Irish was that he speaks and understands the language.

If it is desired that his qualification in this respect should be tested, I am prepared to take the necessary steps.

Mr. WARD: I will ask the Minister to have the necessary tests as to this man's knowledge of Irish.

HILL OF DOWN ARRESTS.

TOMAS MAC EOIN (for Cathal O Seanain): asked the Minister for Defence whether he will now release Michael Keegan, Thomas Kearney, Patrick Lynam, and John Mooney, all of Hill of Down, Co. Meath, who were arrested with James Keegan and others, since released.

MINISTER for DEFENCE (General Mulcahy): The men in question were not arrested with James Keegan, but were

arrested 13 days later—namely, on the 20th June. They have within the last few days signed the usual form of undertaking, but I am awaiting information as to whether there is or is not a civil charge against them before considering the matter of their release.

[WRITTEN ANSWER.]

COMMANDEERED MOTOR CAR—
QUESTION OF COMPENSATION.

TOMAS MAC EOIN asked the Minister for Defence whether and when Patrick Ferry of Creeslough, Tírconail, may expect to receive compensation for a Ford motor car, commandeered by the Army on November 1st, 1922, and subsequently rendered useless.

General MULCAHY: It is expected that it will be possible to pay compensation to Mr. Ferry in the near future.

QUESTION ON ADJOURNMENT.

Mr. ALFRED BYRNE: I beg to give notice that on the adjournment I will draw the attention of the Minister for Defence to the excessive and most dangerous speed of military motor lorries and other vehicles going through the streets of Dublin. I will be glad if he will have any statement to make. These military lorries and vehicles are going through the streets of Dublin at an excessive speed, and without lights. They are dangerous to the public.

AN CEANN COMHAIRLE: The question to be raised on the adjournment is the speed of military motor cars on the streets of Dublin?

Mr. BYRNE: Yes; and the fact that they are going without lights. In other words, that they are not complying with the traffic regulations in the City of Dublin.

DEFENCE FORCES (TEMPORARY PROVISIONS) BILL, 1923.
SECOND STAGE.

MINISTER FOR DEFENCE (General Mulcahy): I have already remarked on the circumstances in which this Bill comes forward as a temporary measure. At the same time it comes forward as a complete measure, because the Bill was approaching completion in our hands at the time the necessity came to bring it so hurriedly before the Dáil. With the

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exception that certain transitional clauses have been put in, at the end, and with the exception that clauses with regard to the Reserve have also been included in the Bill, the Bill is practically the complete Bill that, under more leisured times we would have put before the Dáil. As a matter of fact, as far as the military authorities are concerned in the matter, it may be considered that the Bill has with them gone through the Committee stage. I have referred also to the possible objections that, doubtless, there are to putting a Bill of this size and importance through, and, as it were, putting the complete responsibility for the details of this Bill on the Oireachtas. But for the better doing of our work and the better envisaging of the situation requiring a Bill of this kind, I think it better, and absolutely essential, that the Bill would be put through in the form in which it is at present, rather than in any mutilated form, the practical result of which would be, perhaps, to put into the hands of the military authorities more general powers than this detailed Bill gives them. I realise that if this Bill passes through, it will pass through with less discussion than in ordinary circumstances. The reason we will not have that discussion is because of the want of time. Perhaps, therefore, there is not the same necessity for going into details as there otherwise would be. There are certain things with regard to the Bill that should, perhaps, be said now. The Bill is divided into a certain number of parts and chapters. It gives the Executive Council authority to raise and to maintain armed forces and it places the control of the forces in the hands of the Executive Council. It places the responsibility for organisation and administration on the Minister for Defence.

All commissions at present are temporary. As this Bill is a temporary measure, all commissions granted under the Bill, if passed in this particular form, would be temporary also. What might be called permanent commissions could not be granted to any officer until we had our permanent Defence Forces Bill. The Bill, as I say, is to be regarded as a complete Bill in itself under which commissions would be granted by the Minister, and would be held during the pleasure of the Minister, who might dispense with

the services of any officer. But the commission of an officer could not be cancelled without the holder thereof being notified in writing of any complaint or charge made or any action supposed to be taken, and he would be called upon to show cause. The Bill provides for the having of commissioned officers of certain specified ranks, and for the setting up of a college that would prepare candidates and put them through the necessary course of study for the holding of such ranks. Under the Bill the Minister would be responsible for the preparation of regulations regarding the pay of officers. In the matter of enlistments the Bill provides a specified routine to be gone through for the enlistment of the soldiers. It safeguards the position of the ordinary individual with regard to enlistment by stipulating that if a person offers himself to be enlisted in the forces he will receive from the recruiter a notice informing him of the general condition of the contract he is about to enter into, and he shall be directed to appear before the District Justice or the Peace Commissioner for attestation. If he fails to appear, or on appearing declines to be enlisted, no further proceedings are taken; but if he appears before the District Justice or the Peace Commissioner he shall be asked whether he has been served with and understands the notice, and whether he assents to be enlisted, but the enlistment shall not be proceeded with if it is considered that the recruit appears to be under the influence of drink or in any other manner appears to the District Justice or the Peace Commissioner to be incapable of taking an oath of allegiance, promising to obey his superior officers and giving allegiance to the State. In the general matter of the organisation of the forces certain stipulations are made in the Bill, but certain matters are also left to the Minister, who, as I have said, under the Bill is responsible generally for organisation. Matters such as these would require to be attended to even under this temporary Bill.

The Minister would require to deal with certain matters in connection with the constitution of the General Headquarters staff, and the ranks and titles and duties of the various officers attached to that staff. In regard to the division of the State into military districts, the

Minister will require to deal with the constitution of Headquarters staffs for those districts and the organisation of the various combatant armed forces and departmental services, such as cavalry, military engineers, infantry, air force, medical and veterinary services, and military police. The titles of these various forces, the pay warrant we have already referred to, and the general regulations correspond with the existing regulations in the British Army. These would be regulations regarding the interior economy of the Army not provided for by such special regulations as the pay warrants. Rules for procedure of courts-martial, equipment regulations, recruiting regulations, and such matters as these would be embodied in special sets of regulations. There is also the question of the Reserve. The Bill provides for the formation of a Reserve and for general matters in connection with the Reserve. The Reserve will consist of officers and men. The officers will require to be men who served as officers in the forces and retired therefrom, and the men would require to be men who had retired from the forces also.

In the matter of discipline the Bill provides general regulations under which the Army shall be disciplined. In its details the specific offences for which soldiers shall be punished are set out, and in each particular portion of the Bill, where an offence is stated, the maximum punishment award in connection with that offence is definitely stated also. Most of the offences are of a purely military character, such as offences against military discipline and offences committed by one soldier against the person or property of another. Military Courts may try persons subject to military law for an offence which is a civil crime, subject to certain restrictions in the case of treason, murder, etc., when committed by a person not on active service. The various offences of this type are set out in Part II., Chapter I, of the Bill. The only offence for which the death penalty can be awarded, when troops are not on active service, is mutiny. In a sentence of death in such a case the confirming authority is the Minister for Defence; but the sentence will only be carried out subject to the confirmation of the Minister for Home Affairs. Cowardice, treachery, mutiny or desertion, and striking

an officer are, on active service, punishable by death as the maximum penalty, but these are the only such offences so punishable. In the case of a death penalty the sentence has to be awarded by a three-fourths majority of the Court-martial, and in every such case it would be subject to the confirmation of the Minister for Defence.

Field punishment is not permitted by the Bill. That is to say, no soldier can be subject to punishment except in a place that is definitely specified in the Regulations as being a place of military detention, or a military prison. There shall be in attendance at every Court-martial a Judge Advocate, and his duties are to advise the Court on all questions of law, and to see that the proceedings of the Court are accurately recorded. The Judge Advocate at a General Court-martial must be a Barrister-at-Law or a Solicitor, as well as being an officer. There is ample protection for officers and men in the matter of general redress of wrongs at the hands of a superior officer or otherwise.

In matters with which the civil population are closely concerned, in the matter of billeting and in what are called the impressment of carriages, the Bill is very restricting on the military authorities, so much so that until the proclamation to be issued under this Bill actually establishing the Defence Force the terms are so restricted as to practically put the Minister for Defence and the Army Authorities into rather a legal hole; but the general circumstances are such that we are prepared to suffer from that particular disability.

All billets will be secured through the civil authorities, except in special cases and in time of emergency. Billeting consists of assigning quarters to officers, soldiers, and horses by means of an official order requiring the person to whom it is addressed to provide the necessary accommodation, and the power of billeting in the Bill is confined to the civil authorities. In times of peace officers and men can only be billeted under the direct authority of the Minister for Defence, and in time of emergency billets for officers, soldiers, or horses can only be demanded under an order signed by an officer of not less rank than Commandant, and in these circumstances they shall be provided for by the civil authorities direct. Only in cases in

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which persons liable for the provision of billeting have refused to carry out an order given them by the police, can a military officer of the prescribed rank actually commandeer such billets.

In times of peace no person with the exception of certain persons who shall be named can be required to give billeting except by their own consent. When billeting does take place private houses are entirely exempt. Troops may be billeted in any victualling house as defined. The expression victualling house is defined as including (a) all inns and hotels whether licensed or not; (b) all livery stables; (c) all premises licensed for the consumption of wine or spirit on the premises. "The keeper of a victualling house upon whom any officer, soldier or horse is billeted shall receive such officer, soldier or horse in his victualling house and furnish there the accommodation following, that is to say, lodging and attendance and food for the officer or soldier and stable room and forage for the horse in accordance with the provisions of the 5th Schedule to this Act." Where the keeper of a victualling house on whom any officer, soldier or horse is billeted desires relief he can obtain it by providing adequate accommodation in the immediate neighbourhood if approved by the billeting authority, that is by the police authority who for this purpose is described as a superintendent or an inspector of the Dublin Metropolitan Police or of the Civic Guard. They make out an annual list of victualling houses liable to supply billeting, and any person aggrieved may apply to a Court of Summary Jurisdiction for redress. The keeper of the victualling house can also complain to the police of having an undue proportion of officers or soldiers billeted upon him.

In the same way, in the manner of commandeering transport or applying for transport it will have to be sought through the machinery of the civil authorities, and in times of peace motor transport shall not be liable for requisition—that is, the Army authorities cannot in times of peace in any circumstances requisition from the civil population, even through the medium of the civil authorities, any motor transport.

The transitory provisions of the Bill are in order to get us over a very particular difficulty arising out of this present situation. Part I. of this part of the

Bill cannot come into operation until there is a definite proclamation by the Executive Council establishing the Defence Forces. The transitory provision of this Bill is intended to bring the present Army, which for the purposes of defence are styled the National Forces, under the disciplinary section of this Bill. There are pending, subsequent to the passing of this Bill, (1) a proclamation establishing a Defence Force, and (2) a proclamation establishing a Reserve. The necessity for including the section in regard to the Reserve in the Bill and for the actual proclamation establishing the Reserve is because of the fact that at the present moment we have an Army which, if the men were released at the time at which their period of attestation ended they would vanish automatically by the end of this year. It is necessary, therefore, that recruiting should be started afresh, or that, as portion of the recruiting, re-attestation of some of the men at present in the Army should be carried out. The Bill provides that men may be attested for an original period of attestation of 12 years—that is, just to give any scope that may be necessary; but our present intention, not fully defined and not fully decided upon yet, is that the men who are to be recruited in the immediate future ought to be re-attested if serving at the present moment, and would be attested for a period of 18 months, and would be required to give two years to the Reserve. The passing of the Reserve clauses of this Bill would put us in a position to require men recruited now to give a small period of service to the Reserve, which would mean that in the years 1925-26 we would be in the position to have a much smaller Army, perhaps, than we would be able to be content with or satisfied with if we had not a Reserve to call upon in case of any great emergency. Generally we are in a period of transition. It seems to us a matter of necessity at the present moment for keeping our strength to what it should be, and in such a manner as not to bring any great financial burden upon the country, that we should put the Reserve clauses into this Bill. We may then expect as a result of this Bill a proclamation establishing a Defence Force and a proclamation authorising us to establish a Reserve. There shall also be issued a pay warrant. At the present moment members of the force are paid at certain rates, and they are paid in ad-

dition dependants' allowance. These rates were fixed and the dependants' allowances were granted at a time and in particular circumstances. It is not the intention that men recruited in future under the new conditions should be paid dependants' allowances. There will be certain arrangements by which men will be paid married allowances under certain conditions, but dependants' allowances as they are known at present will not be paid, and certain alterations in the matters of pay will also be made and come into operation in the case of men either re-attested from the present Army for service in the newly-constituted force or for men who were recruited for that force.

Generally the Bill has been very carefully framed for the purpose of legalising the existence of the Army, and for the giving of legal authority for the carrying out of the different matters entailed in the organisation, training and discipline of the Army, and for giving the Oireachtas full control over the Army. The Bill has been, as I say, framed purely from that point of view, and framed carefully from that point of view, and, while I regret the circumstances that make us ask the Dáil to pass it rather hurriedly and without due consideration, I feel that if the Bill is passed as it stands for a period of twelve months the Oireachtas itself will have a valuable opportunity of considering the different clauses of the Bill and the effect of those clauses in law. The military authorities, on the other hand, will have an opportunity of seeing in actual practice the powers it was proposed to take somewhat permanently under this Bill. Nothing but good can come out of the putting, as it were, of the cards of the Bill on the table and of leaving them there for a period of twelve months, some of them at any rate in practice, and some of them that cannot possibly come into practice, and that in the meantime there is nothing in the Bill that would prejudice the rights of any individual in the country, or prejudice the real important matter, the grip and the power of the Oireachtas or of the Executive Council in controlling the Army. Therefore, I have absolutely no hesitation on my part in appealing to the Oireachtas for the passage of this Bill through the Dáil and through the Oireachtas as a whole even in the very short space of time and with an inadequate examination and con-

sideration of its various clauses. I beg to move that the Bill be now read a Second Time.

MINISTER for EXTERNAL AFFAIRS (Mr. Desmond Fitzgerald): I beg to second the motion.

Mr. JOHNSON: If this Bill were the only business before the Dáil, and that the whole of the period between now and the dissolution could be devoted to it, then I think possibly the request of the Minister could be granted with much less demur than must be given to his proposition as he has placed it before us. A Bill of this kind ought to be before the country for a couple of months rather than for a couple of days before it enters into detailed discussion. It is not the only Bill that is put before us, and, therefore, in the week or two that will pass before the dissolution, this Bill cannot receive the consideration that it ought to receive, and I am going to ask the Dáil to disagree with the view of the Minister and not to give this Bill a Second Reading. I do that, recognising quite well that an Army Bill is required. I recognise it is necessary that a Bill should be passed legalising the Army, but I am not convinced by what the Minister has said that this Bill ought to be passed into law, and passed into law without close discussion and a great deal of amendment. I believe that the essential needs would be well served if the provisions comprised in Part IV., transitory provisions, or such of them as are applicable, were made into a temporary Bill, with such regulations as are at present in force, and that, attached with the Schedule, they would supply all the real needs for a period of three or four months. We have placed before us a Bill of 243 sections, with two or three pages of schedules, raising, as I believe, one of the greatest issues that could be placed before the Oireachtas—that is to say, the form which a Standing Army should take and the composition of a Reserve Army. The whole question of military defence, of the relations between the military and the Legislature, and the relations between the military and the public, are all raised by this Bill. Questions that have been the subject of the gravest discussion for centuries in other countries, and in recent years prior to the European war, caused an immense amount of controversy in democratic

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countries as in autocratic countries. The Minister comes to us and says that his advisers, the Army authorities, have for a considerable time been examining into the question of what kind of Army is to be established in Ireland. They have brought to us their conclusions in the form of a Bill, and we are asked to pass that Bill at a few days' notice without adequate consideration, practically without any consideration, and allow it to become law. The Minister says it is only temporary, and that the experience that would be gained during the temporary period would be valuable in the making of a permanent Act. No doubt that is true; but, as I have had to say frequently of late, in doing that you would be establishing in an Act of Parliament certain ideas that are very apt to become fixed, whether they are good or bad; wise or unwise, and I think the Minister has not made a satisfactory case in desiring the Dáil to pass this Bill through all its stages without the consideration that such a Bill requires.

I want to just point out a few of the detailed defects. I feel that it is almost useless to raise a general discussion upon the form that an army should take and what the military requirements of this country are. This Bill proposes to establish a Standing Army, with a Reserve, and to invite soldiers to enlist for a period of twelve years, or such less period as may be from time to time fixed. Some of the defects that I want to call attention to, that to my mind make it necessary that the Bill should not be passed, because of the character of the Army which will emerge are these: I notice right through the Bill there is, whether it is intentional or not, a marked distinction in the consideration which is given to the position of the officer and that of the soldier. Right through the Bill one finds running the idea, borrowed from older armies, that the soldier is of one class and the officer of another; that the officer is of a different class, and, therefore, should be treated in an especial manner. In my belief the provisions of the Bill rather set the course for the establishment of an officer caste in this country. Right in the beginning we have the first hint, as I say, no doubt copied from definitions in legislation affecting other armies. In the definition clause, Section 3, paragraph 8, "the ex-

pression 'soldier' does not include an officer as defined by this Act." From that we go on, and we find that the commissioned officer is in an entirely different position towards the country, through the Minister, from that of the soldier. The Minister may appoint to commissioned rank any person, whether one having had military experience or not, whether capable of commanding men or not. He may give any person a commission to command soldiers, and that commission carries with it such control and such authority over the mere common soldiers as may well endanger their lives, not to speak of their liberties. We all know how, as a matter of fact, inexperienced men, without training, without ability, very often with nothing but a name, have been given commissions in other armies and placed in command of soldiers of experience, causing the loss of the lives of those soldiers. And the Bill proceeds on the assumption that that system is a good one, that the Minister may pick out whom he wishes and give him a commission. Henceforward the mere ordinary soldiers are to obey the lawful orders of that officer. The officers are appointed, and the soldiers shall serve those officers.

While I am on this question of commissions, it might be well to draw attention to the fact, as indicative of the mind of the authorities in the drawing of this Bill, and tending to contradict a claim that was made by the Minister himself, that through this Bill the Army will become quite definitely subordinate to the civil authorities; the Minister is the ultimate authority. "All officers shall hold their commissions during the pleasure of the Minister." "The Minister may appoint to a commissioned rank any person." And the Schedule giving the form of commission is to be signed by the Commander-in-Chief and Minister for Defence—one person, not two persons. It is the assumption of the drafters of this Bill that the present position in which the Commander-in-Chief is also Minister is to be perpetuated, and that the Minister for Defence shall be the Commander-in-Chief. I do not know what the mind of the Ministry is in this matter, but I think I am right in saying that the Dáil has been living in the expectation that there would be a civilian Minister for Defence, to whom the Commander-in-Chief would be responsible, but that is

not the mind of the Ministry. We are to have a perpetuation of the present position of Commander-in-Chief and Minister for Defence in one person, the Army under the Control of the Commander-in-Chief; the Minister who issues the commissions to be also the Commander-in-Chief. I say that the effect of that combination makes the civilian administration subordinate to the Army, instead of *vice versa*.

To come back to the differences in treatment of the soldier, as compared with the officer, the commission which is granted to the officer notifies all men that the Minister trusts in his loyalty to our country, and reposes special confidence in his courage, honour, good conduct and intelligence, and, having that trust and confidence, grants a commission. No pledge of loyalty is demanded of the officer in receipt of a commission. No demand for attestation or oath or declaration from the individual. The Minister trusts in his loyalty. He may be deceived. That does not matter. He is not going to ask for any oath or declaration, and I think he is right in that. I do not think it is worth a snap of the fingers. But why make a distinction? Why, when you come to the soldier, do you demand of him that he shall take an oath and solemnly swear that he will faithfully serve as a soldier in this Army? The reason is, of course, that the soldier is selling himself. The Minister pointed out and quoted from the Bill to show that the soldier is entering into a contract of service. I ask the Dáil to note that. I think—I am not sure—that that is a new idea affecting the relations between a soldier and the country. He is entering into a contract of service, but bear in mind that the contract takes all and gives nothing. The contract of service says that he voluntarily enters the Army, and will accept such pay, bounty, rations, and clothing as may from time to time be prescribed in accordance with law. I know quite well that that is the commonest form in respect to armies and Government service. But the civil servant in the past has not entered into a contract of service. The soldier, I think, has not heretofore entered into a contract of service. He may be held to his service because of his attestation and the rates of pay, gratuities, bounties and pensions may be altered by the State, notwithstanding anything he may say.

But when we are entering into a contract there is supposed to be some kind of equal liberty on either side to withdraw or to continue. There should not be a change in the terms of the contract without the consent of both sides. It may be a good thing that this new provision should be made, and that the new service should be in the nature of a contract, but let it be a real contract, not a one-sided one.

Right through the Bill will be found differences in the method of treatment in respect to offences. For similar offences there are different punishments. Sometimes the punishment of the officer may be more severe than that of the soldier for a similar offence. At other times it is less severe. In the case of the officer caste it is assumed in the Bill that the moral obloquy that attends certain punishments is enough. In the case of the soldier that is not supposed to have any effect. He must be imprisoned. When an officer is found guilty of being drunk when on duty during active service he may be dismissed with ignominy. If not on active service and found guilty of drunkenness the officer may be dismissed or some less punishment may be imposed, but no ignominy is attached. The soldier, if he is found drunk on active service, shall be imprisoned, while the officer is dismissed—a thing he may be playing for. I do not want to suggest in this part of my criticism that the punishment of the officer may not have the effect that is desired to prevent these offences happening and to remedy that kind of indiscipline. It may be the most effective method of preventing those offences; but I submit that we ought to so control this Army and discipline it as to make the same kind of punishment have the same effect. The assumption in these differential clauses or paragraphs is that the officer is going to be affected by the moral sense of his cronies, his companions, his family and the public with whom he mixes, but that the soldier is of different clay and is not going to be affected by any such thing. His mentality is of a different type, and he must be punished by imprisonment.

The question then should be raised: Who are the persons to whom control of this Army is to be given; who are the persons who are to be the officers in this Army? Shall I say who are the persons who may be the officers of this

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Army? Until five years have passed after the establishment of the Military College the following persons shall be eligible for appointment to commissioned ranks:—(a) Citizens of Saorstát Éireann; (b) officers and men serving at the time of the passing of the Act in the National forces; and (c) such other persons—not citizens of Saorstát Éireann, not officers and men now serving—such other persons as may be approved of by the Minister.” What does that suggest? It suggests that the Minister who may be appointed, who may be acting as Minister for Defence and Commander-in-Chief of the Army, may look around to France, Germany, England, or America for adventurous men who want to fight in the Irish legions and give them commissions. That is the most charitable view. Some people would be unkind enough to say that it may be that you want to appoint certain ex-officers or present officers of the British Army, or certain scions of the nobility who would like to continue their connection with Ireland, having had ancestral homes here, but preferring to live in England; “however, to show our appreciation of your past services we are prepared to give you commissions in our Army.” Some persons may be unkind enough to say that that would be the intention. It is certainly allowable. Why? I suggest that my first proposition is more likely to be true—that it is designed to make it possible to employ French or German or American military men, give them commissions, and put them in charge of certain operations, not merely as advisers, but to give them some authority as commissioned officers.

Then we come to the question of the Reserve. The Minister has urged the necessity for this part of the Bill being passed, because it would enable a considerable reduction in the Army, and therefore in the cost of the Army, to be made within a year or two. I am not going to discuss the wisdom or otherwise of having a Reserve of this kind. It will require a good deal more consideration than it has been possible to give within these last couple of days. But the form which the Bill takes suggests the necessity of having a thorough discussion of the details—such a discussion as is not possible within the limits suggested by the Minister. One knows how Reserve forces in other countries have been used for purposes for which armies were not

designed. One knows how military Reserves can be called up in times of labour disputes to put men who are Reservists under pain of death or penal servitude for disobedience as soldiers, for disobedience in refusing to do work which as civilians they have refused to do, and legitimately so. Now, I am sure the Minister will say that such a thought is entirely beyond the bounds of possibility within his intention. But we know something of what has happened in France, in America, in England, South Africa, Switzerland, not to speak of Germany in these matters. We know how easy it is, in times of labour disputes, to foment trouble by calling upon the District Justices, as it would be in this case, to require the officer of the area to call out the Reservists to do certain work, to undertake certain operations, which may be thought to be necessary for the preservation of public order. I am drawing attention to this, not because I think this Bill is particularly defective in respect to the powers of officers under this Reserve clause, but because I want to show the necessity for a close examination in Committee of this Bill, and comparison with the powers given to officers and military authorities generally in other countries under other Acts. We are asked to pass this, to avoid examination, to take the Minister's intention as being all that is necessary, to have perfect faith in the good intentions, and trust to these good intentions being carried out by his successor. Well, that is asking too much of the Dáil; it is unreasonable. It is placing the Dáil and Oireachtas as a whole in a position in which it should not be placed. It is asking us to relinquish our duties, and to put our signatures to a document which we have not been able to read, or certainly not been able to give proper consideration to. I could go into some details in regard to these sections dealing with the Reserve and the openings there are for misuse, for using them tyrannically, but this is really work for the Committee Stage, and I feel that the position the Minister is placing us in practically deprives us of the right to examine this Bill in Committee. To go back for a moment to the distinctions that are made between the officer and the soldier. I note that the officer's person is sacred. “What in the captain is but a choleric word is in the corporal rank blasphemy.”

In Section 37 it will be seen that the soldier who strikes an officer during active service is liable to the death penalty, or if not on active service to penal servitude. The officer who unlawfully strikes a soldier is liable only to imprisonment at any time. That is seen under Section 63. As I said, that kind of distinction runs right through the Bill, and indicates the state of mind in regard to the Army and its place in the public life; makes it incumbent, in my opinion, that the Bill before it passes, should have a great deal more consideration than it is liable to receive, being introduced in the way it has been. There is a small matter which gives, perhaps, a small indication of the state of mind. I will just ask the Deputies to refer to Section 158, Sub-section (3), and to note what is used in reference to the treatment of lunatics; how different it is from the references to previous acts in recent Bills that have been passed through the Dáil. We have always referred to the short titles of Bill and their index numbers, but here we are asked to go through the long process of referring to the 10th Section of the Act of the Session of the 30th and 31st years of the reign of her late Majesty, Chapter 118, entitled an Act to provide for the appointment of officers and servants of District Lunatic Asylums in Ireland, and to alter and amend the law relating to the custody of dangerous lunatics and dangerous idiots in Ireland. I think it must have been a printer's error. He was at the job and he wanted to extend the time occupied in printing this section. I am sure it is only the printer.

General MULCAHY: The one laugh in the Bill.

Mr. JOHNSON: I hope the Minister will not allow this Bill to pass through with that sub-section in that form. I am sure the real defects of the Bill are very much more worthy of note. But this is the kind of defect which would excite the risibility of the critics. Seriously, I think that the Minister is making a mistake, and is asking the Dáil to stultify itself in putting a Bill of this magnitude and this importance before us with a request, almost an ultimatum, that it must be passed, and passed without due consideration. Because it has been duly considered by the military authorities, therefore we can, for one year at least, trust to its working out without grave

effects and without serious damage. I am not prepared to agree to that, and I believe that the real needs that were described by the Minister as the necessity for legalising the present Army, and giving legal authority to enforce discipline, could be attained without fixing upon the country, as I contend this Bill does, an army system, even if only for a year, which is opposed to the desires, as I think, of the majority of those who have had an interest in the development of the Volunteer forces, and who have some regard for what the military requirements in this country in future may be. I think the Minister should have given us his views of what those military requirements may be. He did not even indicate the numbers that he has in mind, but those are, perhaps, left over for a later speech. I want the Dáil to say that they are not satisfied that this Bill meets the requirements of the case, and that because the Dáil is not to be given a full opportunity for close analysis and careful consideration of the details of the Bill it ought not to receive its Second Reading.

Mr. FITZGIBBON: Deputy Johnson, in almost the concluding sentence of the speech which he has just addressed to the Dáil, touched upon the matter which makes me feel doubtful about this Bill, and that is whether the majority of the people in this country do desire an Army of the kind foreshadowed in this Bill or not. I can very well understand how this Bill came to be before us in the form in which it has appeared here, and, looking at the size of the Bill and the obvious care with which it has been prepared, I am not surprised, indeed, that it took a very long time to prepare and frame it, because if this country is going to have an Army of the kind contemplated by this Bill, then I think this Bill is a very good Bill indeed, and could scarcely be improved upon. The Minister, however, told us that this was only a temporary measure. Although it was to be a temporary measure, he told us that it was still as complete as the organisation over which he presides could possibly make it. I am inclined to agree with him in that. I imagine that it was never intended that the Dáil should be deprived of the right and the power to criticise every line and word of this measure, but it is the circumstances in which we find ourselves and in which the

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Government find themselves which has compelled the Minister to thrust this Bill upon us and tell us we must take it as it stands. If circumstances were otherwise than they are, then I would say that that was very unfair, and indeed I would think it was an outrage upon the Dáil and the nation to bring in a Bill of this kind and of this size, and say it must be passed in a week or ten days or a fortnight, or whatever the period allowed may be. But we must remember that the Irish Free State was conceived in one war and was born in another, and that we have never known peace from the period long before the Treaty was signed, and that we have had in one form or another substantially the Army that we have to-day on active service in this country, and that it was essential and is essential to provide regulations for the government of that Army, and that those had to be drafted and provided in time of war. It is now necessary, when we are going to have a General Election, when we do not know what may happen in the country, to provide at once regulations for the government of that Army and for its discipline and for its internal administration—"interior economy," I think, were the words the Minister for Defence used.

Now that would be perfectly proper. For an Army of the kind contemplated by this Bill regulations of some kind must be passed. I do not myself feel able to blame the Minister, who has been no doubt for a long time preparing these regulations with the intention that they should be fully discussed, if he now finds himself compelled to bring in the Bill without giving us the proper time to consider it. I do not blame him for that. But what I do desire to guard against is that this Dáil or any future successor of ours should be committed by this Bill to the type of Army that this Bill contemplates, and that they should not be able to change it. The Minister did tell us that this is merely a temporary measure, and it is quite true that Clause 1 of the Bill says that this Act shall remain in force for one calendar year after the passing thereof. That is the common form in Army Bills in England since the Bill of Rights. It is called the Army Annual Act, because it has to be passed every year. But, although when that Act was first passed they contemplated an Army

that was to be dissolved at the end of one year, that Army is there ever since. It is the most perfect instance of an absolute standing Army of professional soldiers, although the making of that Army under the Army Annual Act was intended not to be a permanent Army of that kind. You have now in Great Britain the most complete instance of a standing professional Army to be found in the whole world, although, as I say, under the original Army Act it was only intended for one year. Therefore, the first provision that this Act is only for one year does not make it a temporary Act. It is true that it is called a Temporary Provisions Bill, and that, I think, might be relied upon as showing that it is not intended to set up a permanent Army, but under this Bill a permanent Army could be set up, and unless we take precautions those of us who may be returned here after the election may find that a permanent Army has been installed under this Bill. One of the very points Deputy Johnson finds fault with is, curiously enough, one that I am inclined to think indicates the intention of the Minister that this could only be a temporary Bill, because the very Schedule in which he read out the form of attestation concluded by "I the Commander-in-Chief and Minister for Defence authorise and declare all these things." That satisfies me that when the Minister was framing the attestation oath he took the form in use at the present time, when one man is filling both offices, and that he had no intention of perpetuating that for the future. However, that is a matter between Deputy Johnson and the Minister. I do not know what the truth may be about that. I do not want to prejudice the framers of this Bill or the case they want to make, but I want to prevent the framers of the Bill from prejudicing the country by it. Remember what we are. Let it not be supposed for a moment that I question the full authority of this Oireachtas to pass any Act it likes binding this country, and that Act will be binding upon this country. But although we have the power, still as St. Paul said, "Though all things are lawful to us" they may not be expedient. We were sent here a year ago to draft a Constitution and to pass the necessary legislation for the government of the country. We have drafted the Constitution, and we have provided new constituencies and

we have enormously enlarged the electorate. And although it is quite true that one-third of the elected representatives have not thought fit to attend here I doubt very much whether the people who sent them here, or at all events the large majority of the people who sent them here, would have agreed to their being disfranchised in the way they have been if they knew that that was going to be the result of their actions at the election a year ago. Now, I feel very seriously indeed the gravity of doing anything that might tend to saddle upon this country a standing army of the British or Continental type, and that is what this Bill undoubtedly would do unless its absolutely temporary nature was clearly safeguarded. I do not want to argue for one side or the other, but it is well known that a standing army of this type is the most expensive form of self-defence a country can have. Great Britain, with this type of army, spends far more every year in keeping up her small army than Continental nations spend in keeping up armies ten times the size. It is true that they have conscription; but has not the country the right to consider, and has not the Dáil itself the right to consider before it decides upon an army of this kind whether it may not fairly copy the example set by some of the Dominions, and whether that example would not provide us with a Defence Force we need at one-tenth of the cost contemplated under this Bill. Australia and New Zealand have a system by which every male who is not physically unfit from the age of twelve to twenty-five I think has to spend sixteen days in every year doing military training in a military camp. Sixteen days out of the year is not very much, but a boy who begins at twelve and goes on until he is a man, giving sixteen days each year to military training and military discipline acquires sufficient military training to enable him to turn out as the forces from Australia and New Zealand showed in the great war, as good a soldier as the very best in the whole world.

The same system prevails in Canada. There, for a period of four years, young men spend from 14 to 16 days each year in military training camps. That short period does not take much from the life of a man, or from his time for enjoyment. A somewhat similar system obtains in South Africa, with the exact details of

which I am not quite familiar. In pre-war days the Australian Defence Force, run on the lines I have stated, cost something like two and a half millions, while in Canada a similar force cost something like one and a half millions. In Canada, the permanent army is something under 4,000 officers and men. These are permanent long service officers and men kept to train the men who come each year for their annual period of training. The total estimated Army Vote for Canada in pre-war days was something like one and a half millions. I suggest that we ought to consider, and the country ought to have an opportunity of considering, whether a Militia Force on these lines might not be better suited for the Saorstát than a permanent Standing Army of the Continental or British type. I hold no brief for one side or the other, because I have not taken time to consider which would be best suited to the needs of this country, but I object to being committed to one particular system by this Bill before I have had an opportunity of investigating the advantages or disadvantages, of one system or the other. I know there are many systems, and I think we ought to have time to consider which is best for us. For these reasons, if I was not able to assure myself that this Bill did not permanently commit us, I would, even at the risk of putting the Government into greater difficulties at the last moment, vote against this Bill; but I believe that we could so safeguard ourselves as to bring into force this Bill for disciplinary and interior administration purposes only for the twelve months for which it purports to be put in force by Clause 1, and that we might, by proper amendment, safeguard ourselves and our successors in that way.

It seems to me that if we so amend the Preamble as to make it perfectly plain upon the face of it, which it certainly is not now, that this is merely a temporary measure, we will then be protecting ourselves and our successors from having this Bill thrown at them and of saying that the Oireachtas has decided that this is the kind of Army the Saorstát is to have, and that therefore, it cannot be altered in twelve months' time. The Minister has assured us, and I have no doubt whatever that his assurance will be accepted, that he regards this as a temporary measure. He will have no objection whatever, I am sure, to saying so on the face of the

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Bill itself, or to putting into the Bill substantially the words that he used when he was moving the Second Reading. It seems to me that if we struck out the second paragraph of the Preamble, which is the one that most commits us at the moment, "whereas it is adjudged necessary by the Oireachtas that a body of armed forces should be raised for the Defence of Saorstát Éireann," and that the concluding paragraph was amended by making it quite clear that this Bill was passed by us as a matter of urgent necessity, and to provide temporary regulations for the government of the Army, that, I think, would safeguard us so far as we can do it from being told that by passing this Bill *en bloc* without consideration, we had adopted the principle of everything found in it. I do not commit myself to words, but I think if the last paragraph were to read: "Whereas it is a matter of urgent necessity to provide a code of laws and regulations for the enforcement of military discipline in the existing armed forces of Saorstát Éireann"; that is the truth, because we have the forces and have not got the regulations, and it is necessary to pass this temporary measure for the enforcement of discipline. Then the provision could read on "and such other armed forces as may be raised under this Act." The Preamble could then read on in the ordinary way that this was a Temporary Provisions' Act to be enforced for one year. I believe that if amendments on these lines were introduced in the Preamble, making it clear on the forefront of the Bill that we were passing it as a temporary, urgent necessity alone, then it would not be open to anyone to lay the whole blame on us that we had committed the country to a standing Army without consulting the country. I believe that the country has a right to be consulted on this matter, and that we have not the right, until the full electorate of the country has spoken, and has sent people here, to commit the country to one form or another of a National Defence Force. I hope the Minister will not think that in anything I have said I am casting any aspersions whatever, or that I am disparaging in any way the existing force. I tried to protect myself by saying that I did not commit myself to one side or the other for the simple reason that I have had no opportunity of considering or contrasting different systems. If we are to

have a standing Army, I myself do not see how we could get a better one than that which this Bill provides, but looking at the matter in a cursory way, I am far from convinced that an army of this type is the sort of army that the Saorstát needs or can afford. I shall, unless I can get some more or less satisfactory assurances that amendments of this kind can, and will be, introduced on the Committee Stage, feel disposed to vote with Deputy Johnson against this Bill. On the other hand, realising as I do the urgent need for a measure containing the bulk of what is already in this Bill, I am prepared to vote for it on the assurance that we will not find military colleges established, and all the machinery that will be set up for a permanent independent Army if this Bill were acted upon, in full blast when members return here after the General Election. I do not suppose that anything of the kind would really be attempted, but I would welcome an assurance from the Minister or the President or from anybody else who may be authorised to give it that it is not intended to use the passage of this Bill, which is presented to us as a temporary measure, as a means for ensuring the permanent institutions that the Bill proposes to set up.

General MULCAHY: It might help if I dealt with the particular objection of Deputy FitzGibbon now.

Mr. DARRELL FIGGIS: I would like to ask is this closing the debate?

AN CEANN COMHAIRLE: It is only to deal with a special point raised by Deputy FitzGibbon.

General MULCAHY: The matter of committing the country to a particular form of Army and the matter of our views at the present moment as to what an Irish Military Organisation ought to be, or as to what an Irish Defence Force should be, I am not prepared to deal with now. Anyone with a sense of responsibility who is defining these matters which may, more or less permanently affect the form of this Defence Force, cannot say in the present circumstances in Ireland, what type of Defence Force ought to be in Ireland. It is not as if we were proposing a permanent Defence Force along the lines of this Act. We have been presented with a situation that was as a cauldron of boiling

oil, and we have had to deal with that situation practically and without any great chance of thought in the matter. Just as the present Army forces in Ireland are a reaction against certain events in Ireland, you might call this particular type of Bill a natural reaction to the type of armed forces that have had to be set up here. To think that in six months time there might be any possibility of having Military Colleges of a well-defined type set up in Ireland is forgetting the laws of lag and inertia that there are in all human things. So, it would be forgetting those laws to think that the form of Army we have at present in Ireland is going to pass in a year or two years. The intention of this particular Bill is to deal with the present situation. We consider that this Bill is likely to be required to deal with the years that will come immediately after the present situation, but we do not want to commit anybody to that. If there is anything in this Bill that can be taken out, without prejudicing the actual terms of the Bill, it can be done. The Bill is to be in operation for the short period of twelve months, or any less period until some other Act is passed. I certainly would be prepared to make any excision in the Bill or make any addition to the Bill that would make it perfectly clear that this was a Bill to deal with a temporary situation and to deal, if you wish, with a temporary Army.

Mr. DARRELL FIGGIS: There can be no doubt that it is sincerely meant that this measure will be a temporary one. I am afraid examining it one finds evidence throughout it that it cannot really be so construed at all. Before I go into that, let me state what I would take to be matters of common acceptance, not only amongst all Deputies here, but by all reasonably minded people in the country. We do know that the Free State Army had to be hastily gathered together; its organisation and much of its detail were hastily improvised to meet a situation in which a blow was aimed at the very existence of the State. The Army had to be formed in that way. It had to run in advance of the Legislative authority generally adjudged to be required before such acts are undertaken. We are now faced with the fact that a dissolution will very soon occur, and here is this Army that has

been gathered together and that has no legal existence whatever. That has to be remedied before this Dáil can pass out of existence for the formation of a new Dáil. These are, I say, matters of common acceptance. All that is wanted in the way of a legislative instrument, at the present moment, is something quite brief, giving the necessary powers to continue what has been done in order that the new Dáil, when it meets, will have a free hand in considering whether what has been done is of the kind that should continue, and in the second place whether it is of such a kind that the country really wants. Deputy FitzGibbon dealt with this point and stated that he did not desire to take sides as between the two forms of Army which might be suggested. So far as I personally am concerned I feel that this country will not require a standing Army. Our sister States in the Commonwealth have been through this period and they have decided for the militia form of Army—a loose and expensive form. Deputy FitzGibbon quoted the cost for the Army Defence of Canada prior to the war. The cost of the Army Defence of Canada for last year came to, in the English equivalent or Irish equivalent of money, just a little more than £2,000,000. Our Bill is 10½ millions. Canada and all our sister States and a great number of Continental nations have come to the opinion that the militia form is the wiser form, whether accompanied by general service, universal service, conscription, call it what you will, or not. They have adopted it, and in all European countries at the present moment the terms of service are being shortened. Only the other day I noted in the Press that the Belgian State fixed its Infantry term for twelve months, bringing it down from a longer period. The longest term outside France is that of Poland, where they have fixed the period of two years. Our provisions are quite different. It is perfectly clear from this Bill that it imagines a permanent standing Army. I will even go further. I will quote certain passages from it to show that it contemplates a standing Army of the rigid type that England has, and which England needs for purposes which are not the same as our purposes. Some of the most extraordinary provisions in this Bill really contemplate in the end a

[Mr. Darrell Figgis.] kind of paid Praetorian Guard. We have been reminded several times that the Bill is entitled, "A Temporary Provisions Bill," and we are informed that the Act will continue in force one calendar year after the passing thereof, and shall then expire. Section 144 says, "A person may be enlisted to serve as a soldier of the Forces for a period of 12 years, or for such less period as may be from time to time fixed by the Minister." Although this Bill is only to run for twelve months, whereupon it shall expire, at the end of that twelve months the New Parliament will find that a number of persons have been engaged under terms of enlistment that may be twelve years, and will anyhow be more than twelve months. That is by necessity giving a certain fixity, a certain rigidity and permanence, such as the temporary provisions referred to in the Short Title scarcely are consistent with. We go into still more elaborate features in this Bill. Section 153 says:—

"A soldier of the Forces who has completed or will within one year complete a total period of twenty-one years' service, inclusive of any period served in the Reserve, may give notice to his commanding officer of his desire to continue in the service in the Forces; and if the prescribed military authority approve he may be continued as a soldier of the Forces in the same manner in all respects as if his term of service were still unexpired, except that he may claim his discharge at the expiration of any period of three months after he has given notice to his commanding officer of his wish to be discharged."

It is hardly congruous with a Temporary Provisions Bill that is to last for twelve months, to enter into provisions as to what is going to happen to what I have described as paid Praetorians when they have served for 21 years. There are many provisions of that kind—provisions that clearly contemplate an army which will be established as a standing army. Although it is perfectly clear that the Minister in moving this Bill is honestly desirous that we shall not bind the hands of our successors, the provisions contained in the Bill are such as must inevitably bind the hands of our successors if this Bill be passed in its present form.

How does the Bill come before us? The day before yesterday leave was given in the Dáil to introduce this Bill. Yester-

day at mid-day we received copies of it in time for a Second Reading to-day—a Bill which contains 245 Sections and a number of Schedules! Some of the sections I have read. They look forward, as I have said, not to twelve months ahead but to 21 years ahead. These are the provisions we have brought before us on such short notice, without time to consider. We are asked to put those provisions through, and we are told that if we do pass them in this form, if we do rush them through with this extraordinary haste, that because the Bill is only a Temporary Provisions Bill, and because there is a section in it by which we are told it will continue for twelve months and then expire, the subsequent Dáil, when elected, will have its hands entirely free. I admit that there are many provisions in this Bill that are very necessary at the moment—particularly the sections dealing with discipline which are very urgently required and should be passed. But why go into the question of enlistment? Why go into questions of the prolongation of enlistment outside or beyond the period defined in the general purposes of the Bill? There must be, I take it, a re-enlistment of a good many of the soldiers in the Army at present, within the next three or four months. That is a matter of common knowledge, and one might take it as a matter of general acceptance. But when these re-enlistments, or new enlistments, are to be considered, let them be considered in exactly the same light of their being merely temporary provisions that will bind the State for no longer period than the Bill itself purports to bind the State, in order that when this Bill shall have expired in the normal course defined in the sentence in which temporary provision is ensured, punctually at that moment, or as near afterwards as possible, the State will be able to resume the enlistments of an earlier period, and that it may have its hands entirely free in order that it may consider whether it will undertake a Standing Army of about 30,000 men, which will cost this country at the most economical working £5,000,000 a year, or whether it will go in for a general service principle, such as has been outlined by Deputy FitzGibbon, or, in the third alternative, go in for a more decentralised militia form of army, such as other nations have. It is much less costly, answering many of the diffi-

culties that Deputy Johnson referred to as distinguishing between caste and caste, and is being more and more approved of, not as the result of theoretical thinking, but as the result of the experience of other nations. This has been necessitated because of the charges that are accumulating against the States every year, as they are accumulating against this State every year. Feeling the menace of having a professional force professionally engaged for warfare, and for a number of considerations, both practical and ideal, both material and otherwise, these States have come to that conclusion.

I believe that we will desire ourselves to follow more or less along those lines and develop either a decentralised militia or else have general service on the lines dealt with by Deputy FitzGibbon, and adopted in all the sister States of the Commonwealth. But when these conclusions are to be taken, the new Dáil if this Bill is passed in its present form on the lines set out in its provisions and expounded by the Minister, will find its hands tied because of these enlistments that have been taken for a number of years, as well as because of a number of other provisions.

There is one further reason why the course of action suggested by Deputy FitzGibbon should be adopted. This Bill has taken a long time to prepare. I am not making any carping criticism, when I say that a Bill of this length must inevitably be full of a number of things that the Dáil would not care—and I do not believe that the reasoned wish of the Minister would be that the Dáil should care—to pass. Let me just quote one or two. I choose them because they occur in the earlier part of the Bill. I have actually made a list of 35 recurrences of a phrase which shows that the Bill does require to be amended at least in one very important and cardinal feature. I take the phrase as it occurs in Sections 6 and 7. In Section 6 (2) it is set out that “members of the forces shall serve under such conditions and for such periods and at such rates of pay as may be prescribed.” It does not say by whom it shall be prescribed—whether by the Army Council, by the Minister, by somebody responsible to the Dáil, or by somebody not responsible to it. It is assumed that what is meant by the phrase is “prescribed by the Minister.” I take that for granted. But I deal with

it as a matter of drafting, and I am not referring to it in any other sense than as a matter of drafting. This phrase is repeated without the additional words that the Minister means, 25 or 30 times. It is repeated that number of times without the necessary completion. That would be a very serious thing.

AN CEANN COMHAIRLE: The word “prescribed” is defined in Section 3, the definition Section. There are thirty-one definitions in that Section and this particular one is No. 19.

Mr. DARRELL FIGGIS: I apologise. I did not notice that definition; I had skipped the entire definition clause in view of the fact that 245 Sections had to be read in a few hours. Looking at that particular definition, I am not sure whether that would be sufficiently clear. However, let us say it is. There are other matters. I notice in one case, for example, that the Minister on the 23rd March, in answer to a question directed to me, gave the pay and allowances of officers and men. I have gone through the various ranks, both of N.C.O.'s and Commissioned Officers that he mentions, and there are some curious discrepancies that I am not able to account for, and which ought to be explained before any Bill is passed by the Dáil, setting down these ranks in any final form. I return to the original point which is this: Some stabilisation; some authorisation of the present Army, is required. If a Bill is to be a Temporary Provisions Bill for the Defence Forces of this State, these Temporary Provisions should be merely the setting out of what is immediately required to give form and authority to what has already been done. I suggest that Part I, Chapter I, which says “It shall be lawful for the Executive Council to raise and maintain an Armed Force to be called *Oglaigh na hÉireann* (hereinafter referred to as the Forces), consisting of such numbers of officers, non-commissioned officers and men as may from time to time be provided by the *Oireachtas*,” and paragraph 5, which says: “The control of the forces shall be vested in the Executive Council, subject to the provisions of this Act,” is the essential business of this Bill. Once we have done that, not much more requires to be done except to pass the Temporary Provisions

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and let all the rest be passed into a Schedule, and so be left over for subsequent Dála. When they are elected they can deal with this matter without their hands being tied by very elaborate provisions which it would be easier to continue than to revise, and particularly without their hands being tied by enlistment that automatically runs beyond the period of the Bill, which is claimed to be for twelve months only, although the enlistments will carry it on for a longer period.

CATHAL O SEANAIN: Dubhairt mé an lá fé dheire go raibh gádh le Bille den tsord seo, ach nuair do léigh mé an Bille mar atá sé os ár geomhair indiu annso, b'é mo thuairim nár cheart glacadh leis in aonchor. Nílím ag trácht anois ar na pointí do chuir Tomás Mac Eoin agus na Teachtaí eile os cómhair na Dála, ach tar éis an Bhille do léigheamh, táim cinnte nár ceart don Dáil glacadh leis. Nuair a dubhairt mé gur ceart Bille den saghas so do thabhairt isteach, ní le Bille mar seo a bhí mé ag súil. Teim gur dhubhairt an t-Aire féin gur Bille sealadach é seo. Ach, sé an locht atá agam air gur doigh le aoinne go raibh na daoine gur cheap é ag leanamhaint sómpla an Bhreatain Mhoir. B'fhéidir go bhfuil gádh le sin i Sasana, ach ní aon gádh leis annso.

I dtaobh na pointí do luaidh Tomás Mac Eoin agus Darghal Fíges, nílím a rádh aon nídh mar gheall ortha soin. Ach deirim go bhfuil pointí eile in san mBille, agus ar an adhbhar soin ba cheart gan an Bille a glacadh. Dubhairt Gearóid Mac Giobúin gur ceart leasú éigin do dhéanamh ar an mBille, ach an leasú do cheap seisean ní dhéanfaidh sé an ghnó. Caithfidhmíd Bille éigin do chur i bhfeidhm do'n Airm. Is dóca go nglacfaidh an Dáil leis an Bhille seo, ach déanfaidh sé docar don Airm agus don tír.

Maidir leis an saighdiuir, níl gúth ar bith aige. Caithfidh sé géilleadh do ghach ordú ó'n oifigeach. Ní féidir liom an Bille do thuiscint 'na lán pointí, agus ní féidir le formhór muinntir na Dála é do thuiscint. B'fhéidir go dtuigfeadh na dlíghtheadóirí é. Coitheis nó trí seachtmaine ó shoin, dubhairt Teachta an Dáil nár bhféidir rudai áithrithe tuitim amach, ach de réir an Bhille seo ní raibh an ceart aige.

Dubhairt an t-Aire an lá fé dheire ná raibh aon difríocht idir na fearaibh agus na h-oifigigh. Deirim-se go bhfuil. Tá sé sa mBille, agus is mór an difríocht a theasbaineann sé sin idir sprid na bhfear agus sprid na n-oifigigh. Ní fear-oibre oifigeach. Duine os cionn fear íseadh é. Sin mar a mbionn sé ins an mBreatain Mór.

Tá punt beag eile agam; agus b'fhéidir nach punt beag é ach punt an-mhór. Baineann sé leis na cúirteanna fén mBille. 'Sé oifigeach a tabharfaidh breitheamhnas ar oifigigh eile, ach ní thabhairfidh saighdiúir breitheamhnas ar shaighdiúirí eile. Níl an Bille cosamhail le aon rud a dubhairt an t-Aire an lá fé dheire. Ar an adhbhar soin, iarraim ar an Dáil gan glacadh leis.

RISTEARD O MAOLCATHA: Ná tuig gach a gceolsear duit mar is mó bréag a ndéan gach toisg. Sílím nár cheart do Theachtaí míniú a bhaint as an mBille seo nach bhfuil ann. Nuair a sgriobhtar i roinn den Bille nach saighdiúir oifigeach, ní ach *convention* é sin. Ní cheart a rádh gur daoine fé leith na h-oifigigh. Is féidir focal eile do chur isteach annsan in ionad saighdiúir. Tá an focal soin ann mar "*definition*." Ní cheart míniú do bhaint as focal mar sin. Ní dhéanfaidh a leithéid sin de ghearáin aon mhaitheas don Bille, ná don Airm, ná don tír. Nuair a n-iarrtar cead, fir a thabhairt isteach san Airm go ceann dá bhliain déag, ní cóir tuiscint a shin go mbeidh an Bille seo i bhfeidhm níos fuide ná aon bhliain amháin. Ní raibh a leithéid in ar n-aighe cor ar bith. Ach ba mhian linn cead a bheith againn rudai mar sin do dhéanamh dá mbéadh gá leo. Ba mhaith an rud an Bille do fhágaint mar atá sé. Nuair a bhfeicfidh muinntir na tíre é agus nuair a thuigfidís é, beidh sé soiléir doibh gur Bille é ar mhaithe an Airm agus ar mhaithe na tíre ar fad é.

I regret that in the circumstances some of the Deputies do not consider satisfactory the case we have made for passing this measure in its fulness, and as a temporary measure lasting for twelve months or until such time as a permanent Act is brought in, and that they should oppose it. The appeal to draft a shorter measure sounds reasonable, but the actual effect of a shorter measure would be inevitably to put into the hands of the

military authorities greater powers than they will have under the Bill as it is at present framed. To simply take the transitory provisions here and preface them by a Clause in the manner which Deputy Johnson suggests, would be to leave us without Defence Forces by the end of the year, and to even safeguard ourselves against that would mean putting general powers into our hands that it is better should not be put into our hands.

You have provisions here suggesting that soldiers may be enlisted for the original period of enlistment of twelve years. When we were framing this Bill originally, and for the purposes of putting it through as a more or less permanent Act we did not contemplate that we would recruit men for the original period of enlistment of twelve years. What we had in mind was that we would not recruit men for a longer period at most than two years. We were working on the lines of the British Act, bearing in mind the South African Defence Act and the Canadian Militia Act, and we considered that it would not be introducing anything prejudicing ourselves or prejudicing the position in any way to put in these Clauses which I think are taken from the British Act itself. But I can guarantee that in regard to any man or any recruited man between this and the passing of the permanent Act that any subsequent Government shall not be prejudiced to the extent of having a larger number of men on their hands enlisting for a longer period of years apart altogether from the fact that in the enlistment contract, even though a man was enlisted for a period longer than twelve years, still the position of the Oireachtas would be quite sufficient to dispense with the services of such men. But it is not our intention to enlist men for a longer period than eighteen months or two years according as the sizing up of the situation shall determine, and it is according to that that we framed these particular regulations. The argument that we want to form a standing army as distinct from the militia is something with which I do not agree. There is nothing in the Bill, even as a permanent Bill that would necessarily lead us in that direction. The Bill is the outcome of the forces we are dealing with and of the necessity of the times and we have so organised upon those lines. We cannot proceed as in normal circum-

stance when you could satisfactorily arrange for the defence of this country against both external and internal dangers simply by a militia, or simply by going into a scheme of training of men for a certain number of weeks every year. Consideration of these things satisfactorily cannot even take place so far as I can see even in twelve months' time. I am, as I say, quite satisfied to safeguard the future along the lines suggested by Deputy FitzGibbon and also by Deputy Figgis, and I have taken a note of what Deputy FitzGibbon has suggested, and will see that as far as possible the objection he makes is met, although I might feel inclined to argue that the prejudicial effect of the Clauses he spoke of is not real at all. In the matter of the distinction between officers and men that is one of those distinctions that I spoke about in Irish, that it is not reasonable or proper to make. There are of necessity distinctions between officers and men, and there are of necessity distinctions between officers and men particularly when they have to be dealt with in regard to offences. If an officer gets drunk a couple of times you cannot deal with him in a certain way, and then leave him to carry out his officer's duties, because they are of a particular type, and he stands in particular relationship to the body of men, whereas you can reasonably deal with the soldier who had got disgracefully drunk on a couple of occasions, and send him back to his ordinary work. But, because you had to deal with two different classes in two different ways, that does not create two different classes. The creation of these differences will react upon the army situation. It is not reasonable, I say, to make such deduction from anything in the Bill, or that there is any likelihood of an officer caste—I do not know much about the word—developing. I think the fears expressed in the matter were the fears of imagination.

Now, with regard to contracts I do not know that there is anything in the Bill saying that when a soldier enters the Army and signs his attestation form he is signing a contract form, but actually he is, and the terms of that contract will be the terms that will be plain to be seen, and if happily per chance in that contract it makes portion of the contract such that the man will have to accept any changed conditions that may occur either in matters of receipt of clothing, or re-

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 ceipt of pay or any other conditions with regard to his original enlistment—if he is likely to suffer a change in these particular ways during his period of contract there is no reason why the contract should not be made plain in regard to such provision, and it would be no less a contract. With regard to the question of commissions being issued by the Minister as distinct from the Executive Council that is a matter I will look into before the Bill comes before us again. Actually the Minister issues commissions on behalf of the Executive Council.

Mr. JOHNSON: I think the Minister rather misunderstood the point; it is not the difference between the Minister and the Executive Council, but it is the conjunction of making one person both Minister and Commander-in-Chief.

General MULCAHY: I was going to deal with that, but the objection was made about commissions being issued by the Minister as distinct from the Executive Council.

Mr. JOHNSON: That was not in my mind.

General MULCAHY: Some Deputy who spoke made it. In regard to the Commander-in-Chief and the Minister being one and the same person, that is the point that will be made clear I think by the Ministries Bill which, in one or two respects, will be complementary to the Army Bill as far as the Minister and his particular powers and sphere will be concerned, but it is not the intention that the Minister, if Commander-in-Chief, will be anything but a civil person, or it is not the intention that he will be in any way a person bearing Executive military authority or acting in a military capacity in any way.

With regard to the point as to the persons who may be taken as officers into the Army and who may get commissions that question is dealt with in Clause 18, paragraph (c). In that particular case it is simply a matter of leaving the powers to ourselves, to the Minister or to the Army Authorities to meet any particular case that might be found to be reasonable or necessary, but it is not the intention to give commissions to or to place in responsible and commanding positions in the Defence Forces

of the country, men who are either French, German, American or English.

Mr. JOHNSON: It is possible to do that under this Section.

General MULCAHY: It is possible in words, but I doubt if it is possible in actual facts. In the matter of numbers complaint was made that any succeeding Government is likely to be committed to any recruiting that shall be done in the meantime. An undertaking has been given to the Dáil in the matter of Army expenditure, arising out of the Estimates, that we shall have the numbers in the Army reduced to not more than 30,000 men by the end of this financial year. Actually the arrangement is that we shall have not more than that number of men by the 1st of March of next year, and the new Government will have plenty of time, in the meantime, to see that such arrangements are made and such precautions taken that will not put it in the position of being unnecessarily saddled with expenditure in the matter of the Army when it comes to deal with the expenditure that it will be called upon to enter into for a period after the 1st of April next. Attention has been called to the fact that in certain Continental countries the period of service for soldiers has been reduced very considerably, but there is also the fact, in connection with these Continental countries, that they have universal military service. Our present outlook on the Army, even though people may find complaint with the expression that it is supposed to get in the terms of this Bill, is that we should recruit men for short service. We have in mind that we are now under special conditions, and that we will transmit to it conditions very much different. There is this particular advantage that I feel in putting the Bill in this particular form before the country, and in not making any radical change in it, that you have a complete thought, as it were, there, and that that can be subjected to wide criticism in the meantime. There will be a wide understanding of any implications that it is proper to find in any particular clauses, and we will be in a better position to say that the matter has been fully thought over and that it has been thought over with reference to a very definite and complete expression of thought as to what a complete Army Bill should be; and though there may be

found inconsistencies in this Bill, that a particular clause has been inserted in it which makes it a temporary Bill, I say the Bill is a complete Bill, and that the temporary clause only happens to be in it because of the conditions in which we find ourselves. These inconsistencies will not then be inconsistencies. I repeat again that I appreciate the very great difficulties and differences with which Deputies, who feel their responsibilities, have in accepting this Bill with little consideration and in a hurried way. On the First Reading I indicated the particular circumstances in which I found myself asking the Dáil to pass the Bill in this way, and I feel that in the Bill itself or because of the circumstances in which you are asked to pass it, it is not reasonable that the Dáil would turn it down, or would ask for such discussion of it as might delay the passing of it to such an extent that we would be left without the powers that we require for legalising and controlling the Army.

Mr. DARRELL FIGGIS: I was not quite able to follow the Minister's undertaking, and I desire to ask if I understood him correctly to say, because I am anxious to vote for the Bill, and to help the Executive to that extent to get such powers as are clearly required if the Army position is to be stabilised, that he is willing to make the Bill consist of just those essential clauses, and to put other parts into a Schedule, so far as the text itself is concerned, so as to leave the matter free for subsequent Legislatures, and, under the second head, that the enlistments set out in the Bill will not be for a longer period than the term of the lasting of the Act itself.

General MULCAHY: Deputy Fitz-Gibbon's objection was to the second Clause in the Preamble of the Bill. He asked too, that the fifth Clause of the Preamble should be amended.

Mr. FITZGIBBON: What I said was that I wanted to make it quite clear that the Oireachtas was not committed to this Bill as a permanent measure. I am not very particular about the words in which that is done. What I want to ensure is that it is made quite clear that this Bill is passed as a matter of urgent necessity, and to make regulations for the existing forces. The wording I suggested was:—“That whereas it is a matter of urgent necessity to provide a code of laws and

regulations for the enforcement of military discipline in the existing armed forces of Saorstát Éireann, and for such other armed forces as may be raised under this Act,” and to delete paragraph 2 of the Preamble.

Mr. DARRELL FIGGIS: In that case I take it the rest of the Bill would stand as it is, including the enlistment sections?

General MULCAHY: I think there was some change required in the second sentence of Section 1.

AN CEANN COMHAIRLE: No.

Mr. DARRELL FIGGIS: I would like that it should be stated with regard to enlistment—this would force the matter upon the attention of subsequent Dála—that it would not be for any longer period than the running of the Act.

General MULCAHY: It might leave us in the position that immediately that new Act was passed our standing army would automatically stop, and we would have no carry-over army. I am prepared to consider the putting in of the Clause that is suggested there, which it is thought will satisfy the scruples of Deputies who feel that they are committed by passing the Bill in this form. With regard to the recruiting, I am prepared not to recruit a man for a longer period than two years, say, with a short period of reserve, because, as I have pointed out, it is necessary to secure a reserve. That reserve would be for a short period too. If the period of recruiting was 18 months the period of reserve for such a man would be 2 years. You could take it that your recruiting period would not go longer than 2 years at the present moment and any period of service plus reserve that there might be in the case of a man recruited in the meantime would not be longer than 3½ years. I have pointed out that the reserve Clauses are Clauses that will enable us to maintain during the two or three years immediately to come our defensive military strength, and will not involve us in great financial expenditure. Otherwise my proposal would be that the Bill would practically stand as it is.

Question put:—“That the Bill be read a second time.”

The Dáil divided. Tá, 37; Níl, 8.

Tá.

Liam T. Mac Cosgair.
Donchadh Ó Guaire.
Gearóid Ó Súilleabháin.
Uitíear Mac Cumhaill.
Mícheál Ó hAonghusa.
Liam de Róiste.
Seamus Breathnach.
Peadar Mac a' Bháird.
Darghal Fíges.
Deasmhumhain Mac Gearailt.
Ailfrid Ó Broin.
Seán Mac Garaidh.
Risteárd Ó Maolchatha.
Pilib Mac Cosgair.
Domhnall Mac Cárthaigh.
Sir Seamus Craig.
Gearóid Mac Giobúin.
Liam Thrift.
Eoin Mac Néill.

Liam Mag Aonghusa.
Pédraic Ó Maille.
Seoirse Mac Niocaill.
Fionán Ó Loingsigh.
Seamus Ó Cruadhlaoidh.
Cristóir Ó Broin.
Próinsias Bulfin.
Seamus Ó Dólaín.
Aindriú Ó Láimhín.
Próinsias Mag Aonghusa.
Eamon Ó Dúgáin.
Peadar Ó hAodha.
Seamus Ó Murchadha.
Liam Mac Sioghaird.
Tomás Ó Domhnaill.
Earnán de Blaghd.
Uinseann de Faoite.
Mícheál Ó Dubhghaill.

Níl.

Tomás de Nóglá.
Riobárd Ó Deaghaidh.
Tomás Mac Eoin.
Seamus Eabhróid.

Liam Ó Daimhín.
Cathal Ó Seanáin.
Risteárd Mac Fheorais.
Domhnall Ó Ceallacháin.

Motion declared carried.

General MULCAHY: I am again in the position of asking the indulgence of the Dáil to have the Third Reading taken earlier than it ordinarily would be taken. I would ask to have the Third Stage fixed for Monday, the 30th.

Mr. JOHNSON: In that respect, I wish to say that the position is one that I am not going to make any objection. The simple reason is that I think the opportunity for any consideration or amendment of the Bill is out of our hands and we had better let the Bill pass in the way the Government wishes.

Third Stage of the Bill ordered for Monday, 30th July.

FINANCE (No. 2) BILL, 1923—FIRST STAGE.

The PRESIDENT: I wish to ask permission to introduce a Bill to give relief from income tax for the year 1923-24 in the case of National Health Insurance authorities in Great Britain and Northern Ireland. It is a Bill equivalent to what has been passed in the British Parliament. This is part of our bargain. National Health Insurance is looked upon as a service which will not permit of the deduction of income tax from dividends or income tax from securities. In the ordinary way we ought to have introduced this Bill some time ago. I move formally for permission to bring in the Bill.

Question put and agreed to.

Second Stage ordered for Friday, 27th July.

An Leas-Cheann Comhairle at this stage took the chair.

COMMITTEE ON FINANCE. CIVIL SERVICE COMMISSION.

Motion by the Minister for Finance.

The PRESIDENT: I move:—

"That, for the purpose of any Act of the present Session to regulate the appointment and service of persons in the Civil Service of the Government of Saorstát Éireann, and to establish a body of Commissioners to inquire into and certify the qualifications of persons proposed to be appointed, it is expedient to authorise the payment, out of moneys provided by the Oireachtas, of the remuneration of the Commissioners and their officers and such other expenses of carrying such Act into effect as may be incurred by the Commissioners."

Question put and agreed to.

THE DAIL RESUMES.

Resolution reported.

Motion made and question put:
"That the Dáil agree with the Committee in the Resolution."

Agreed.

DAIL IN COMMITTEE.**CIVIL SERVICE REGULATION
BILL, 1923—THIRD STAGE.**

Sections 1 to 5 put, and agreed to.

Section 6:—

In case the Minister for Finance and the Minister in charge of a Government Department shall consider

- (a) that the qualifications in respect of knowledge and ability deemed requisite for any particular situation to which this Act applies in that Government Department are wholly or in part professional or otherwise peculiar and not ordinarily to be acquired in the Civil Service, and the Minister in charge of such Government Department shall propose to appoint to such situation a person who has acquired such qualifications in other pursuits, or
- (b) that it would be for the public interest that the rules in regard to age and the whole or any part of the examination for such a situation as aforesaid should be dispensed with,

the Commissioners may, if they think fit, grant their certificate of qualification in respect of such situation upon any evidence which is satisfactory to them that the person proposed to be appointed to such situation is fully qualified therefor in respect of age, health, character, knowledge and ability.

Mr. DARRELL FIGGIS: As an amendment I move that paragraph (b) be deleted. I stated yesterday what I felt with regard to the Bill in general. Deputy Johnson is moving an amendment later, to which I will just briefly refer, inasmuch as it has been accepted by the President. It is to the effect that this Act shall continue in force for six calendar months after the passing thereof, and shall then expire. After those six months the whole question of the Civil Service Commission may be again gone into. Even for this short period I think that paragraph (b) is undesirable. Daniel O'Connell once said that a coach and four could be driven through any Act of Parliament; a coach and forty could be driven through this. This paragraph that I ask you to delete is not very essential; not very much

service of it could be made in the meantime, and I urge the President to accept my amendment.

The PRESIDENT: I am at some loss to know the reason why the Deputy is putting forward this amendment. We know that within the last two or three months considerable case has been made by Deputy Figgis on behalf of certain officers of the Government, who have not come in through what is called the Civil Service door. These officers belong to the C.D. Board, if my recollection is correct, and the Deputy was particularly interested in their welfare, and in the desirability of affording them certain privileges that we do not admit as a class they were entitled to. Since the Land Bill has been introduced and since necessary changes have taken place with regard to the working of one or two Departments which functioned under the late administration here, and which now have altered to some extent, the cases of those officers have come before us for consideration, by reason of the fact, if for nothing else, of the Deputy's very able and capable advocacy on their behalf, and also by reason of the fact that we naturally required some sort of facility for absorbing those protégés of Deputy Figgis into the Service. Now we find that the very machinery we provided for the purpose is blasted and destroyed, or attempted to be blasted and destroyed, by the Deputy.

Mr. DARRELL FIGGIS: May I intervene to ask if the President said protégés or prodigies?

The PRESIDENT: The Deputy can have it any way he likes, because it is both one and the other. I do not know whether the Deputy desires to add to the many perplexities and problems that confront the Executive Council. From some statements that he made this evening, I know that he has modified his aversion—I will not say contempt—to that very estimable institution, the Executive Council. Having provided the facility I have referred to, the Deputy now wants to tax our ingenuity in connection with the particular officers mentioned. I may tell him that it is a dangerous thing to do.

Mr. DARRELL FIGGIS: I may congratulate the President upon the pretty debating point he has made. When I raised the case that he has touched upon

[Mr. Darrell Figgis.]

I desired that those officers might be handled in a legislative way, and that legislation should be made in an Act which was then before the Dáil, and not that it should be done irrespective of legislation. That is the distinction. I do not want to press this to a division, but I do urge the President might accept it even though the Bill continues for only six months. The debating point he made is not valid.

The PRESIDENT: If it is not valid, we ought to know where it is invalid. What are its infirmities, and how is it it does not appeal to the Deputy? He need not tell me that his understanding is as dense as my own. It sometimes takes a considerable amount of explanation to make a point clear to my mind, but I have never known that to be the case with the Deputy.

Mr. DARRELL FIGGIS: We are getting on.

The PRESIDENT: The Deputy wants us to legislate, to transfer *en bloc* the whole organisation into the Civil Service. If that were to be done, where is the necessity for Civil Service Commissioners, or what would their operations be? The process we intended to go through was one of discrimination with regard to those who would pass through this door. We provided for it by means of this particular Sub-section. I think it is the Deputy's modesty prevents him seeing the mess he is getting himself into.

Mr. DARRELL FIGGIS: I have yet to learn from the Minister, after he has finished with his eloquence, whether he is going to accept the amendment or not.

Professor MAGENNIS: The President has, perhaps, not forgotten the fable of the astronomer observing the moon with such intent and eager gaze that he fell into a pit. Deputy Figgis has his eyes so fixed upon the coming election that his vision is not divertible elsewhere.

Mr. DARRELL FIGGIS: I do not see exactly how the election figures in this respect—

AN LEAS-CHEANN COMHAIRLE: This is the Deputy's fourth speech.

Mr. DARRELL FIGGIS: On a point of explanation. I do not see what the

election has to do with the amendment. I have yet to see the electoral value of it. Is the amendment going to be accepted or not? I urge its acceptance, because the Bill as it stands is liable to subsequent abuse.

Amendment put and negatived.

Motion made and question put:—
"That Section 6 stand part of the Bill."

Agreed.

Sections 7, 8 and 9 put and agreed to.

Section 10:—

(1) This Act shall apply to every situation in the Civil Service of the Government of Saorstát Eireann other than any of the situations for the time being comprised in the Schedule to this Act.

(2) The Commissioners may by order made on the application of the Minister in charge of any Government Department and with the consent of the Minister for Finance add any situation in that Department to the Schedule to this Act or withdraw any situation in that Department from such Schedule.

Mr. DARRELL FIGGIS: I desire to move as an amendment that Sub-section (2) be deleted. I think it is also liable to abuse.

The PRESIDENT: That is true. Many things are liable to abuse in the administration of an unscrupulous and unprincipled Executive Council. I am sure the Deputy will not make that charge against the present Executive Council, or their successors, having regard to the fact that he and others will make in a very short time an appeal to the honesty and sensibility of the electorate. I expect the result will be that the best interests in the country will be served by the return of the most honest representatives. I am sure the Deputy will agree with me in that. In the case of the British Civil Service there is a very extended Schedule; quite a number of pages are absorbed.

There are various offices not included in the Civil Service. The list is a fairly exhaustive one. I will not weary the Dáil by reading it. It is one of those cases where it is almost impossible to exhaust the list. One can never tell whether any new appointment or any particular persons should be added to the list. It is for that purpose that it is left vague. It will be open to the Dáil at any moment if an exclusion or an in-

clusion in that particular list be made, which would not be to the satisfaction of the Oireachtas, to direct public attention of it; it would be open to the Oireachtas to voice the objection that the Deputies or Senators might have in regard to any unfavourable inclusions or exclusions that might be made. But it is necessary to have the provision there. It is a sort of enabling Clause and if the Deputy were in the position of a Member of the Executive Council he would admit that himself. We regard it as necessary. I cannot accept the amendment.

Mr. DARRELL FIGGIS: I will not press it.

Amendment, by leave, withdrawn.

Motion made and question put: "That Section 10 stand part of the Bill."

Agreed.

Section 11 put and agreed to.

SECTION 12.

This Act may be cited as the "Civil Service Regulation Act, 1923."

Mr. JOHNSON: I beg to move a new Sub-Section. It is "That this Act shall continue in force for six calendar months after the passing thereof and shall then expire."

The PRESIDENT: I accept that.

New Sub-Section put and agreed to.

Motion made and question put: "That Section 12 as amended stand part of the Bill."

Agreed.

Schedule and Title put and agreed to.

THE DAIL RESUMES.

Bill reported.

AN LEAS-CHEANN COMHAIRLE:

When is it proposed to take the next Stages?

The PRESIDENT: There is not much business on the Order Paper, and if the Dáil were agreeable I propose to take them now.

Agreed that Standing Orders be suspended.

The PRESIDENT: I move: "That the Bill be received for final consideration."

Agreed.

The PRESIDENT: I move that the Bill do now pass.

Agreed.

COMMITTEE ON FINANCE.

ESTIMATES FOR PUBLIC SERVICES.

MARINE SERVICE.

The PRESIDENT: I move: "That a sum not exceeding £10,580 be granted to complete the sum necessary to defray the charge which will come in course of payment during the year ending 31st March, 1924, for salaries and expenses of the Marine Service."

Mr. O'CALLAGHAN: Before this Vote is passed, I should like to ask the Minister in connection with item (d) as to whether there is great dissatisfaction with the amount that the men who recover salvage are allowed. I will give a case in point. Not long ago there was £60 worth salvaged. The men who salvaged that amount of property and brought it to shore only got £17 11s. 6d. Now that was not as good as what the old British regime allowed. They would give a third. The men maintain that they should get at least half of what they take from the sea, and that is fair, very fair.

The PRESIDENT: I will undertake to look into that, and bring it to the notice of the Assistant Minister who is away to-day on some other business.

Mr. O'CALLAGHAN: Under the heading (c) "The Preservation of Life from Shipwreck, Maintenance and Housing of Life-Saving Apparatus, and Exercising of Crews," I notice here an item. I would like to ask the Minister when was the last exercise held, when it is intended to hold the next one, and also what appliances are going to be given out to these men? Will they be the most up-to-date appliances in the service, as used in other countries; also what is the condition of the cars in that particular service?

Mr. JOHNSON: On this general question the position of this service, so far as I have been able to learn, is that it is about the most unsatisfactory of many of the services, perhaps the most unsatisfactory of all the services that there are under the Ministry. The position is, perhaps, changed from what obtained three or four months ago. But I believe that the control of this service, and the methods whereby discipline is sought to be enforced, and the general terms upon

[Mr. Johnson.]

which men are engaged and dismissed are quite unsatisfactory.

I have no papers with me to refresh my memory, but in the case of one vessel which was in this service for a considerable time, and is now under repair, the allegation is made, and I think is well founded, that the Command, in order to cover its own defects, has victimised experienced sea-going officers who were dismissed without any good reason, and were refused even inquiry. I am referring to the "Helga" when engaged on sea services some months ago round the coast of Kerry. Complaints reached me, and were transferred to the Minister responsible for that service, and detailed particulars were given of the way two successive officers were treated under a captain who himself was transferred from the command of that ship to other work, but who, while in command, ran that ship ashore, necessitating, or at least contributing to the necessity for, the big expenses that have been incurred in the repair of that ship. The responsibilities for the expenditure due to the captain's alleged inefficiency was thrown upon the engineering staff, and I believe undeservedly. Now, the engineers in question were men who had long service, and some of them knew this same vessel when she was under the Fisheries Board. Surely men with certificates, and whose demand is that they should be entitled to what they would get in ordinary mercantile service, namely, that someone competent to examine into the case should be asked to judge the merits of their defence, should not be refused redress of that kind. These men were dismissed without any reason, as I believe, and no discharge was given. Particulars have been sent to the Minister responsible, but no satisfaction has been given, and I think the claim that is made by these men for an inquiry into the case, and for the reasons for their dismissal without discharge, should be acceded to and an opportunity given to these men to reinstate their characters for efficiency in their work. This is not a question of moral defects; it is a question of efficiency and competency, and the men concerned are prepared to meet any person capable of estimating the value of the case they put forward and abide by such a decision.

Then I have another case where a man of exemplary character and capacity in the Merchant Service, with years of service as an officer in one of the big liners, came to Ireland and took up a post on one of those small vessels desiring, for patriotic reasons, to do what he could by serving in his profession in this country. He has been treated, I believe, by men who are incompetent to judge of the merits of the case, and has been dismissed from the service without any discharge or character. Now, these three cases, I think, are typical, or at any rate they are significant of much dissatisfaction within the service and significant of the reasons for that dissatisfaction. From what one can hear there is a good deal to be said in favour of a very thorough reorganisation of the controlling influence. I am not for a moment speaking of the ultimate head of the service, but the service generally, in the directive Departments, seems to be at fault, and the complaints that are made are very widespread indeed. I would ask, in the case of the three men I have referred to, that they at least should be guaranteed the right to appear before a competent tribunal of professional assessors to judge of the rightness or the wrongness of the complaints and to give the men an opportunity of reviewing the charges, of refuting the charges of incompetency that are alleged against them, and which they allege were made to cover the deficiency of incompetent superiors.

Mr. CORISH: Under head (g) there is a sum of £8,000, and as it is stated in a note that the details of this service are at present under consideration I would like to know from the Minister what class of men it is proposed to put in as coast watchers. At the moment I understand the Army are detailed for such work. In my opinion, this work ought to be allotted to men with nautical experience; they will be the best for the purpose. I would like to know if we could have tentatively an interim report to show at this stage what it is proposed this service will do for the country, and what it is proposed these men should do. In view of the fact that £3,000 was spent in 1922-23, the Minister ought to be able to say something about it.

Mr. O'CALLAGHAN: I would suggest to the Minister that when he comes to deal with this matter he should em-

ploy 'longshore men, who would be the best, in the absence of the coastguards, for this work. Of course, a good deal is said against them, but take the case of a ship on a lee shore at night; as far as I know there is no one to keep a watch out for signals in such a case. I would ask the Minister to give careful consideration to this matter, as nothing looks so hopeless and so helpless out at sea as a ship in distress, and, as far as I know, there are no eyes watching through the night. I ask the Minister to bear that in mind, and to employ 'longshore men or men with nautical experience, as explained by Deputy Corish. Of all the services that should get attention at the moment, the most important of all is that of life-saving. I would like to know when the last exercise was held, and I might say that it is just as important that men should be trained, in that as in the case of the lifeboat service.

The PRESIDENT: My instructions are that effective machinery for the registration of ships and seamen has been established, and that the service for the salvage of wrecks and the life-saving apparatus around the coast is being overhauled. Much damage, during recent years, has been done to the buildings and equipment of this service, but an inspection of all the old stations is now practically completed. On the east coast 14 stations have been re-established, and these are being re-equipped. Practices and drills have been restarted, and the service will be in working order in a few weeks. Similar action is proceeding in the stations on the south and the west coast, so that before winter effective measures, in the event of wrecks on any part of the coast of the Saorstát, can be taken. Drills have already taken place at Clogherhead, Skerries, Balbriggan, Greystones, and other places, and further drills will take place as the damaged buildings are completed and as more recruits are got together. A Deputy tells me that he has already seen one of these drills take place on the east coast.

Mr. O'CALLAGHAN: At what particular point did the Deputy say?

The PRESIDENT: He did not tell me the place. I take it, it was at one of the stations that I have just read out. With regard to coast watching, the sum

down for the service is £8,000. This is the estimated amount that would be required for setting up, around the coast, a system of watching for wrecks, and for the installation of life-saving stations and apparatus. As far as this Ministry is concerned, life-saving only is involved in this particular Vote. Other duties that have been mentioned, and that have been performed by the coastguards in the past, are now under the Revenue Commissioners or the Minister for Defence.

Mr. O'CALLAGHAN: If this particular service is going to be re-established, will provision be made to keep a look-out for wrecks during the whole 24 hours of the day?

The PRESIDENT: I understand that will only be done at times when very bad weather prevails.

Mr. O'CALLAGHAN: Would a fog be counted very bad weather?

The PRESIDENT: I imagine it would. A few inspectors will comprise the staff permanently employed, and it is anticipated that once the stations are properly equipped they will perform their work to satisfaction. Life-saving crews will be composed generally of fishermen, and men of that type. Regarding the matter mentioned by Deputy Johnson, I think I know the case that he mentions, at least I know a case somewhat similar. If it be the same case as he mentions, I know the man for a very long time, and I was very much disappointed when I heard that there was some sort of dissatisfaction about some service that he had rendered. I had intended to go into the whole matter with the Minister for Defence, and, as a matter of fact, had taken it up already with him on two or three occasions, but owing to the pressure of business recently I was not able to see the matter to the end. However, if Deputy Johnson will give me the name of the person in question I will undertake to take it up personally, and see that there is a fair investigation.

Mr. O'CALLAGHAN: The Minister did not say from what walk of life it was intended to recruit coast watchers.

AN LEAS-CHEANN COMHAIRLE: He said fishermen, as far as possible.

The PRESIDENT: Yes; they are, I suppose, what is included in the term "longshore men."

Mr. CORISH: Is coast-watching at the present moment under the Ministry of Defence?

The PRESIDENT: To some extent it is, and to some extent under the Revenue Commissioners.

Mr. CORISH: Is that to be a permanent arrangement?

The PRESIDENT: I cannot answer that question off-hand.

Mr. CORISH: I do not think an arrangement of that kind would be a wise one. I do not think you would get men in the army sufficiently experienced to do work of that kind.

Mr. O'CALLAGHAN: I suggest it would be better to issue advertisements for men for positions in the service. If that were done, I think it would help to get good, qualified men.

Mr. EVERETT: Is it true that in Wicklow town coast watchers have already been selected, and that the coastguard station there has already been taken over for coastal defence? I suggest that this service should be under the control of the Minister for Fisheries, and that it should be kept clear of the army altogether. I have also to make a complaint somewhat similar to that made by Deputy Johnson. It is in regard to the case of three men who were discharged and who are prepared to submit evidence as to their ability and their knowledge of the sea. Three other men have been appointed in their places, and I desire to ask the Minister if I give him the names of the dismissed men will he undertake to have an investigation made in their cases as he has promised to do in the case mentioned by Deputy Johnson?

The PRESIDENT: I think, in the case mentioned by Deputy Johnson, a grave injustice is being done to one man who has a long association with this profession, and who up to that moment had, I think, an excellent reputation in his profession. A master's certificate is not easily got, and I should say not easily kept, and if through any mistake or possible miscarriage of justice the

man might lose that in our service, or through any association with us, I think it is a case for investigation. With regard to the matter of employment, I think it is scarcely fair to put that to me on the same terms, because if this particular service of coast watching—I might say again that the only part which concerns this particular Vote or this Ministry is the life-saving one—but, if the Deputy puts to me that particular recruitment of the staff should be from a particular order or place, I say that at a moment's notice he should not press me to give an answer on that. If there are suggestions with regard to making this particular Service efficient from Deputies, having close association with districts and with the Service generally, I would be very glad to receive them and to bring them to the notice of the Minister for Defence, and discuss these things with him.

Mr. CORISH: I was glad to hear the statement of the President. I would like to ask him to guarantee, before this Service is handed over to the Ministry of Defence, that the Dáil should have an opportunity to discuss it. I do not think that there ought to be any permanency in connection with his control.

Mr. O'CALLAGHAN: I have made a suggestion already to the Minister in connection with recruits for this Service. It was, "first in, first served," the men being suitable.

Question put and agreed to.

HAULBOWLINE DOCKYARD.

The PRESIDENT: I move: "That a sum not exceeding £45,000 be granted to complete the sum necessary to defray the charge which will come in the course of payment for the year ending on the 31st March, 1924, for expenditure in connection with Haulbowline Dockyard." £40,000 had been voted on account.

I think it is due to one citizen of the Saorstát that tribute should be paid to him for the services that he rendered, and I take this opportunity of publicly expressing the Government's appreciation of the services of Mr. John O'Neill in the negotiations with the representatives of the British Government consequent on the transfer of the Yard. Mr. O'Neill was the Government's repre-

sentative at the joint stocktaking with the British Admiralty, and when the time came for the handing over of the Yard he undertook the responsibility for all the details arising out of the transfer of property worth a very considerable sum. We owe it to his ability and tact that the whole of the arrangements were completed without the least friction or dispute. I am happy to be able to give this public acknowledgment of Mr. O'Neill's services, and of the indebtedness of the Government to him.

Mr. DARRELL FIGGIS: I want to raise a somewhat important question as to the future of Haulbowline, now that it has been transferred to the Free State. I do so on the basis of an advertisement which appeared in the *London Times* on Wednesday last, July 18th. The advertisement reads:—"The Government of the Irish Free State are prepared to consider offers for the lease of the above naval dockyard, situate at the entrance to Cork Harbour, and containing extensive wharf and warehouse accommodation, with large dry dock and slipways. The yard is provided with 60-ton shear legs," etc. It goes on to give the specification, and says:—"Specification, drawings and particulars may be obtained"—and I direct particular attention to this in view of certain remarks I made here on the very date on which this advertisement appeared in London, although I did not know about it at the time—"From J. F. Crowley and Partners, Consulting Engineers, 16 Victoria St., Westminster. Offers, which should indicate the employment which would be afforded, should reach the above at Victoria St., Westminster, not later than August 25th. The Government do not bind themselves to accept the highest or any offer."

There is a public question involved in this, and a public-private question as well. They are of different degrees and in different compartments of importance. I will deal with the lesser important first. Touching the matter that I raised last week, here is an advertisement put in by the persons who, we are told, are the Government Consulting Engineers. Their address is a London address, and they are a London house. *I wanted to know last week, and I failed to elicit the information, as to what the terms or conditions of employment of*

these Consulting Engineers were, and exactly what their remuneration was. I had a clear suggestion in my mind which this abundantly confirms, because when I was shown this by an engineer in Dublin he said "That is the advertisement not of Consulting Engineers, but of Commission Agents." That was exactly what I had in my mind when I raised that question last week, and I touch upon it again just briefly, having this confirmation in my hand. It is a very remarkable thing that an advertisement should be put in by the Free State Consulting Engineers with a London address. Is there no Consulting Engineer here in Dublin with the necessary qualification who could undertake this work? Moreover, the advertisement appears in the London papers, and it does not appear in a single Irish paper.

Mr. JOHNSON: It does.

Mr. DARRELL FIGGIS: Well, then, I am wrong. I have looked for it in the Irish papers and failed to find it. I am corrected by Deputy Johnson, and I withdraw my remark at once. It also raises a matter of public importance, for this reason. The Free State, acting through this firm, is desiring to dispose of Haulbowline. Tenders will be received, or may be received, and may be accepted. Any firm may put forward a tender and state a good price. It also states somewhere in this advertisement that it is necessary to state exactly what employment would be afforded. A suggestion may be made that adequate employment would be afforded, and the price may be good. This firm may get Haulbowline. Now, those who are familiar with the district know that Haulbowline is an island, and this firm, if they purchase it, may come and take possession of this island and use it as a dockyard. There will be no method of controlling what they are doing there. It may easily transpire that it is a foreign firm that has bought Haulbowline, and that it may really be acting on behalf of some foreign Power. It might be the case; it could be the case. The possibility is there. I think, for the best economic reasons, not for reasons merely of profit, Haulbowline should continue to remain in the possession of this State and should not get into other than Irish hands.

[Mr. Darrell Figgis.]

Apart from the economic reasons, for reasons of strategy, I can conceive it being very good business indeed, in view of the international complications that are only too evident and that are disturbing the minds of persons responsible in many capitals to-day, to retain this dockyard. I can see that there are several nations that might desire, through private sources, to purchase a dockyard like this, in view of possible eventualities in the future. Here is an advertisement permitting this, and even inviting it. It would be a grave matter of policy if we were to lay down as a principle that an important dockyard like Haulbowline should pass into the hands of foreigners. I would go so far as to say that it should not be continued by a private firm, that a position dealing with the strategic defences of this country should not be permitted to pass out of the possession of this State. Even though the maintenance of it is not going to be so profitable, I believe that eventually a greater profit will accrue by retaining it, inasmuch as we will have more adequately safeguarded the national protection. It is a matter of common knowledge that Haulbowline was always considered a very important station, from the point of view of naval strategy, and now that it has passed to the Government of the Irish Free State, for that reason, if for no other it should be retained by them. In view of the possibility of international complications, which are not a myth, and which no care can guard against, I think Haulbowline should not pass out of the control of the Government of the Irish Free State.

Mr. HENNESSY: I wish to say a few words on this subject of the Haulbowline Dockyard. I shall deal first with it from the point of view of the bill presented by the British Government to our Government recently. It is for a very huge amount, and I notice in the Estimate that £60,000 has been paid. I hope it is not a fact that £60,000 has been paid before this Dáil had an opportunity of going into the details of that account as presented. It is only fair to the Dáil, many members of which do not know this place, that I should state what occurred. On the 1st April, 1922, the British Government had decided to close down the place, in order to effect economies after the war. That would

have been very serious for the locality and serious for the large number of men and their families dependent on the place, and who are still depending on it for their livelihood. The late General Collins, who was then Minister for Finance, visited the place and saw the importance of keeping the place open, at all events for a period. He entered into some agreement with the British Admiralty that his Government would be responsible for the wages if the yard was kept open and the men continued in employment. About the same time, it is necessary to point out, that unfortunately for this country a vessel left Haulbowline under the noses of the officers of that Island, and we may, perhaps, assume with the connivance of some of them. She left the place in broad daylight and passed into the hands of men who were arrayed against the Provisional Government, and who used those guns afterwards in hacking up the State and in attempting to destroy the power of the Provisional Government. I mention this because it all occurred after General Collins had entered into this agreement, and consequently it was not possible for the Members of the Provisional Government to give the attention which they would give, of course, in normal circumstances to the expenditure of the money guaranteed by General Collins. A huge bill was sent in by the British Government afterwards, and it has been commented upon by the President and by many others. We are not told what value this Government is going to get for the moneys expended. I saw it stated in the Press that we were to get no value at all, that the money was actually dished out and that the men gave nothing in return. I have been in touch with some people who work there, and who are in a position to speak, and they have given me some figures. I am not an authority on those matters, of course, and I am not an assessor, but I think it would be necessary for this Government to get an assessor to go through some of these figures. There were 13 British Destroyers during that period repaired there. Surely we must know what the value of the work to those destroyers amounted to. Some people say it surely reached a figure of £5,000 per Destroyer, and there were various other craft repaired there during the same period. I have another item forwarded to me—

The PRESIDENT: Do you say that there were various other destroyers repaired there?

Mr. HENNESSY: Various other craft—ferry boats, and some work for outside firms. We have an item, “Unnecessary ferries,” which runs from £5,000 to £10,000. Every officer of the Yard or member of his family who wanted to get to the other side took out a boat and ran it across. “Wages charged to unnecessary services,” another £5,000. We do not know what those details are. It might mean repairs to some of the officers’ boats or some of their hockey sticks, or something of that sort. Surely it was not intended, when a member of the Provisional Government entered into agreement with the Government on the other side, that this extravagance would take place and should be continued at a time when this Government was engaged in protecting the State and the lives and property of the people. Then they present this huge Bill and say: “This is the net amount; we are giving you credit for all the work.” We must see that credit. I think it is necessary that this Dáil should see every detail in connection with this account and be satisfied that we are getting credit. I believe that if we investigate the account, the position in regard to this claim will be reversed.

Passing from that point to the taking over of the Yard by our Government, I wish to join with the President in paying my small tribute to Mr. O’Neill and his colleagues in the work they did during that period of transference. The work they did in connection with stock-taking and other matters was very heavy indeed. They did it very successfully, but I think they made one mistake, which is not working out very well for the management of the Yard up to the present. Of course they went to that place not knowing who was who in the Yard. They did not know any of the people in the locality, and they entered into some sort of agreement I understand with the officers of the dockyard—those very people, you must remember, who were there at the time the guns left the yard to destroy the country, or help towards its destruction, and who were responsible for a good deal of the extravagance. I do not think that these were the class

of people any of our representatives should have got into touch with for advice. I think they should have got into touch with people who were sympathetic with this Government and willing and anxious to help this Government on. So far as I can learn they did not get into touch with any such people. I have the honour to represent a portion of the constituency, and I was never consulted. As a matter of fact, I knew very little about those agreements until quite recently.

I was quite prepared, and so were a good many others, to risk everything in order to assist this Government in the administration of affairs in Haulbowline. Still I was not consulted, but I am not complaining about that. What I am complaining about is the fact that they entered into an agreement with the particular class of people I have made reference to. I got a copy of a Minute which reads:—“Free State representatives were not in a position to deal with the question of the *personnel*, and the yard officers agreed to furnish the Free State representatives, who will be in charge of the yard after the 1st April, with lists of suitable men.” It does not state what particular qualifications those men have. Are they men of long training or experience in this particular work? We do not know. Those men were taken on, at all events, when our representatives went there permanently. The place was handed over to the Board of Works, and they are the representatives mentioned in this particular paper. Haulbowline, as Deputy Piggis has stressed, is an important dockyard, and has always been so looked upon. It is one of the most important, at all events, in these waters.

I think a serious mistake is made by the Government in handing the management of such an important dockyard, where the livelihood of so many families is at stake, over to the Board of Works. What experience has the Board of Works or anybody there in the handling of dockyards? They may be able to handle the reconstruction of a police or military barracks, but of the handling of machinery and men in a big institution of this kind they know absolutely nothing. It was fatal to hand it over to them. I am saying this deliberately, because I believe our President and the Government, when they get reports in the near

[Mr. Hennessy.]

future about the management of that place since the Board of Works took it over, will be surprised.

When the President was in Cork recently he received a deputation from there which gave him some very useful points to go on. There is not a day on which I do not receive complaints from this place. I am fully aware that the President and the Government were from the very start extremely anxious to give Haulbowline an opportunity of proving its worth. Last April the President said to a deputation: "If we can work Haulbowline on economic lines, by all means we shall do so." That is the very thing we want. We want Haulbowline to be retained, if possible, by the present Government, and to be worked on economic lines. That is why I complain of the place being handed over to people who could not possibly work on economic lines. As far as I can learn, they are not in sympathy with the development of that institution, or perhaps many other institutions in the State. We want that place handed over to the Ministry of Industry and Commerce, people whom we know are in sympathy with the development of our industries and our institutions, and people who will be able to give practical experience in such development. The sooner this place is taken away from the present management the better for all concerned, the better for the State and the people whose livelihood depends on it. At a recent meeting the President was heckled by some quasi-irregular: "What did you do about Haulbowline?" The person who asked that had no sympathy with Haulbowline, but spoke for the mere sake of interruption. The President stated to myself and others that he is quite prepared to give Haulbowline a fair chance.

AN 'CEANN COMHAIRLE at this stage resumed the Chair.

Mr. HENNESSY: As proof of that he ordered that twelve trawlers be repaired at Haulbowline. That is sufficient proof of the President's sympathy and the sympathy of his Government. But what do we find? Since last April there are three boats on the stocks undergoing repair. Four months ago the repair work started, and will any man tell me seriously, when the accounts for repair-

ing those boats will be furnished in the near future, that the President can stand up here and defend Haulbowline as a paying proposition in face of the fact that three small boats are being re-conditioned there for the last four months? He cannot do so, because the management and supervision there is all wrong. That is the reason why the "Helga" went to Belfast, and perhaps other boats will go to Belfast.

I mention those few points in order to draw the attention of the President and the Dáil to the seriousness of the situation, and I ask the President to have an inquiry instituted into the whole working of the system of management and supervision at Haulbowline. The sooner such inquiry is held the sooner shall we have boats repaired there, and we shall have no further "Helgas" going to Belfast or to other dockyards outside the Saorstát.

I suggested to the President some time ago that many of the lorries and motor cars commandeered by our military authorities many months ago which were broken up or damaged might be sent for repair to Haulbowline. Possibly the machinery there could be adapted to repairing them. It is excellent machinery, and the repaired cars could be turned out in a very short time and returned to their owners. That would save the State considerable expense. The local authority succeeded some years ago in raising a loan to give a supply of water to Haulbowline. That loan has not yet been liquidated. They are still in debt to the extent of about £50,000, and I would like to know from the Minister if any assistance could be given by the present Government in connection with paying off that.

Mr. JOHNSON: I want to support the views of Deputy Hennessy in respect to Haulbowline. I think that he is on good ground when he says that the defect there is inefficient management, or at any rate inadaptability to new circumstances. I think that it would be a blunder to dispose of this establishment. I think it ought to be retained as a State institution. Deputy Figgis has pointed out some of the reasons why it should be so retained. But I think that the Minister ought to bear in mind that this dockyard was adapted for certain work for the British Admiralty, and they re-

tained a staff and an organisation there, uneconomic, always uneconomic, but ready for emergencies, such emergencies as were much more likely to occur under the British Admiralty even than under any Irish Government conditions. The overhead charges and general method of organisation of the dockyard are probably the real reason why the dockyard seems to be an uneconomic proposition, and why it is unfitted under its present management to compete for ordinary commercial work. Deputy Hennessy has spoken of the failure to quote, or to estimate successfully, against Belfast for the repairs to the "Helga." There have been other attempts, I understand, to make estimates for work to be done, and the estimates have been too high.

Consequently the work has gone elsewhere. It is fashionable to blame high wages for inability to compete successfully, certainly in respect to other dockyards, but here you have a dockyard which has been working and has worked up to now on the British scale of wages. It is not the competition of lower wages that has made it impossible for Haulbowline Dockyard to do work in fair competition with rival firms. It is something else. It is not lack of machinery or lack of appliances. They are as good there as anywhere. It is bad organisation, organisation unfitted for that particular class of work, and management that has not been directed to getting the best out of the dockyard itself. We all know what happened in the shipyards during the War, when firms found it profitable to retain men months and months sometimes doing little, sometimes doing nothing, because it was necessary to have them. And the cost was put on to the job. It may have been good policy. It was good policy to retain the men. It is not a fair method of computation of the cost of the job to say that the men whom we retain waiting for a job shall be charged against that new job. What has happened in the past in Haulbowline has been, necessarily so, that they would have men available for emergencies; they kept large numbers of men doing work that was not valuable, but was charged against the establishment. I think that that, along with the excessive overhead charges that were charged against jobs, is probably responsible for the inability of that concern to estimate fairly for work done for the State. I believe that the

establishment can be run successfully, and ought to be run for the purpose of doing public work, private work if necessary, but as a public dockyard and a public engineering establishment, and I suggest that, with Deputy Hennessy, it might well be considered how far other work, not of a ship-repairing nature, could be done in that same establishment. My chief reason in rising was to support the views first of Deputy Figgis that this dockyard ought to be retained as a national concern, and that it ought to be retained and managed efficiently by men who intend to get the most out of it. I also wanted to point out that, whatever defects there may be, whatever failure there has been in connection with the dockyard's inability to compete successfully, it has not been on account of the high rate of wages, and I ask Deputies to note that fact, that contracts are lost, business passes by, from other reasons than inability to get wages reduced.

Mr. DAY: I would like to support Deputy Johnson and Deputy Hennessy in their demand for an inquiry as to how this amount of £85,000 was piled up at Haulbowline. It is not as if one goes in for repairing destroyers that Deputy Hennessy mentions, and work done for outside firms, but if the returns were here of the amount of furniture that was made for officials that were employed at Haulbowline and the number of pleasure boats and motor boats made, it would throw some light on it. Any amount of stuff went to the making of this furniture and repairing boats, and an amount of stuff was looted. If all these stories we hear are to be believed—and I am sure there is a great deal of truth in them, if they are not all true—I think we will find that this amount of £85,000 could be whittled down considerably, and that you might have it down to half of that, or less, and find that Haulbowline was not such an uneconomic proposition as it appears on the surface. I would like to support Deputy Hennessy, too, in the remarks that he has made about woeful mismanagement at Haulbowline at present. That has been shown in the estimates for the "Helga" and in the way in which the work on the trawlers has been delayed since last May. All these things are piling one on top of the other, and they

[Mr. Day.]

are all proof of the woeful inefficiency which is manifest in the management of that dockyard. I am sure if the inquiry asked for is granted you will find that the tale we have been hearing for the last twelve months about Haulbowline is not so bad as it appears on the surface, and if a good many of these abuses could be rectified the working of Haulbowline will be quite an economic proposition for the Government.

The PRESIDENT: With regard to the advertisement that has been objected to by Deputy Figgis, it was after long and careful consideration and many conferences that I agreed personally to the issue of that advertisement. The Consulting Engineers have offices in Dublin, but I take it that it was assumed that not many Irish firms would enter into competition for this yard, and that it would much more likely to attract British or Continental firms, and for that purpose, the office being in London, it might help in some way in getting in touch with a firm that could be met and to whom the advantages of the yard might be explained, and in that way, possibly, we might get a better leaseholder. With regard to what has been said by Deputy Hennessy, Deputy Johnson and Deputy Day, I do not subscribe to the idea that because an institution of this sort was administered to suit the needs of the British Government, we should, in consequence, keep it on. The British Government had need of an Institution like this. It served their purpose. We have not a navy, and if we had a navy I expect that, for some years at any rate, we would keep a place like this busy, because navies, like other things, are rather expensive if you have not some experience of them. If that would be a justification for keeping it on, you would probably have the taxpayers of the country objecting to it. Governments and corporations, and other bodies, do not run institutions like this as well as private firms. I do not think any Deputy has had more experience than I have had of corporations running works with success. They have not been a success, except in places where they have gradually grown, and where great care and great business management had attended their birth and de-

velopment, and that it was a pride to the nation or the corporation to see them grow in that fashion. This is an institution which, we are told, had expensive officers, and it was associated with a great, rich nation capable of keeping these officers in, I suppose, positions of comfort and of ease, and not in very hard work. We are asked to take over this and all the stocks and all its costs. The Board of Works is the institution that we have for undertaking works and repairs. We handed over this place to the Board of Works. We would not hand it over to, let me say, Local Government, which has a staff of doctors and administrators; we would not hand it over to the Fisheries, and we would not hand it over to the Minister for Education, although I believe if we handed it over to him and he put his educational experts on it they would have plenty of work to do. The Ministry of Industry and Commerce have not got any organisation for it, that I know of. The Board of Works looked around for a manager, and they got what appeared to them and to me to be the best person in Dublin for the work, the manager of the Dublin Dockyard Company. He went down there, and we know what has happened since. He went there, I think in April. We know we have got a bill for £85,000, and we have paid £60,000 on account. If we did not pay it the British Government would be entitled to keep on the yard, so I am not at all satisfied that it is such a position or such a place of strategic naval importance as Deputy Figgis thinks. I think the British Navy has got a very capable officer at its head in Admiral Beatty, and I think it is most unlikely that he would allow at any distance from him an important strategic position like that—but, of course, the Deputy may have greater naval experience than the Admiral.

Mr. DARRELL FIGGIS: It is a very lamentable admission that Admiral Beatty would disallow that if he wished to sell it.

The PRESIDENT: All these matters were discussed during the Treaty Conference. I saw the whole of the discussions, and the Admiral said what he wanted; other people pointed out that there was no necessity for taking that

position and this position, and so on. I believe, at that time, if he were able to state a case for the strategic importance of this particular outpost, that he would have maintained his case for it, but he did not. The Deputy disagrees with him. I am sure that the Admiral would pay more attention to his naval duties after he found he had made a mistake like that. There is bad organisation. That is one of the statements made, and I suppose the inference to be drawn is that we have to mend this bad organisation and to cure these infirmities. I say we cannot afford it. The cost is beyond the resources of this State. We cannot support that concern down there, run at a loss for a number of years, and run the risk, perhaps of making a successful venture after a great many years. We cannot do it, and we cannot afford it. We are told now about all the mistakes, the expenses, the excess of officers, and so on. The Deputies knew a while ago there was a considerable bill coming into us, but we heard nothing about these complaints and these extravagances. It is said also, I heard it when I went to Cork, that there was a good deal of looting out of the yard. It is a strange thing that we never heard anything about the looting until that tender from Haulbowline was beaten by a tender from Belfast by more than 50 per cent. The case put up to me there was: "If you do not keep on the yard you will have to pay unemployment benefit, and that would be no gain to you." I said, "I can afford to pay in unemployment benefit the whole of the wages the men would earn in this work and have £100 over afterwards." That is really the case. As regards the trawlers, it was my instruction at first that the trawlers should go there, but when I find out what the cost of repairing them there would amount to, I stopped it at once. The State cannot afford luxuries like this if they are expensive luxuries. The State cannot afford to maintain strategical outposts of that sort. I would rather run the risk of invasion, and advise the Nation to run the risk of invasion, than to keep on this place incurring a loss of £85,000 a year. I think it will be 20 years before we are invaded, and at the end of that time we will probably be able to buy a couple of guns out of the money we have saved, and plant them in such position that it

will be unsafe for any foreigner to come along to tamper with our Constitution or the freedom we enjoy.

Mr. HENNESSY: The President has not convinced me with his arguments in favour of not utilising Haulbowline. He talks of a future annual loss of £85,000. Nobody wants that. We say there is no need for a future loss of £85,000 on Haulbowline if it is properly managed and properly organised. It is because these things are standing in the way that we ask an inquiry should be held into the whole organisation, direction and management of the place, and if there is such an inquiry I assure the President he will come back after the investigation and agree with me and the other Deputies who have spoken. Deputy Johnson stresses wages. I say the mechanics there are working at £2 16s. a week. Similar mechanics working outside, at Furness and Whithy, for instance, earn up to £9 a week on the same work. What is known as the "line of demarcation" is not observed at Haulbowline. The shipwright coming as a shipwright to Haulbowline will work at six or seven other branches as well for £2 16s. a week. That was the system under the British regime, and the workers came together and said if the Free State Government took over the place they would carry on as under the British regime in order to save the place for the Free State. Where, then, I ask, are we to look for the cause of all this extravagant expenditure of £85,000 to the nation. I understand that docking in Belfast costs a huge sum. There is no expense for docking in Haulbowline; any vessel can come into the Government yard and there is no expense. There are various other expenses attached to vessels coming into Belfast and other outside yards which do not exist at Haulbowline. I urge the President to grant this inquiry.

Mr. DARRELL FIGGIS: The President is quite a specialist in flippancy when any matter is mentioned that he desires to have dismissed in that airy fashion. It is very easy to do that. Nevertheless, I say that to advertise so important a strategic point, which may be occupied to our disadvantage in the future, is bad, and I simply leave it at that. The next point is with regard to this advertisement. I do say, and any

[Mr. Darrell Figgis.]

business house in this country or any other country will confirm me in saying, that when tenders are asked for these tenders should be sent to the people whose property is being offered in that way, and should not be sent to those who are acting upon their behalf. The proper place these tenders should go is to the Ministry of the Irish Free State.

The PRESIDENT: I am rather surprised at a case put forward by Deputy Hennessy, that Furness and Whitby have men engaged earning £8 or £9 a week, and mechanics in Haulbowline only earning £2 16s. If Messrs. Furness, Whitby or other firms of that kind were to take up this yard, would there not be greater opportunities of the men earning more wages? They are restricted there now, the Deputy says, to £2 16s. If they have opportunities of earning further amounts in the same area I should think they would be glad of such opportunities.

Mr. HENNESSY: As a matter of fact, we would not object to leasing the place to Furness and Whitby if the State cannot undertake to keep the place open.

The PRESIDENT: The State, after all, in the last analysis, comes down to this, that there are seven or eight or ten men in the State running the State. I presume in the same way you could make the case that the Board of Works knew nothing about this. You might also say that the Minister for Finance had no experience of finance when I took up the office last July twelvemonth, and that the Ceann Comhairle had no experience of chairmanships before as he had never been in a Parliament before. It might also be said that the Minister for Local Government had no experience of Local Government work, never having been a Minister for Local Government before, or that Deputy Fitzgerald, never having had association with other countries, knew nothing about Foreign Affairs. That is the position with regard to the Board of Works, and having that in mind it is still put to me that we should take on this, we who know nothing about it, and hand it over from one Ministry to another. There is an American term, I think, of "passing the pup," but I am afraid that will not improve matters. We intended to see if it were possible to get

some firm to run this place, so that the men engaged there would not lose their employment. That was the main case put up to us, the danger that we were threatened with in April, 1922.

It was to avert that danger that we took over the yard. When we find the cost of it to be excessive, and that we cannot afford that service, we are now endeavouring to find some firm that will take it over as a business proposition. Deputy Figgis holds that we have done wrong about the advertisements. I do not know that we have, but I will look into that point. It certainly struck me that it would be much more likely that firms which might consider it advisable to take this place would be inconvenienced by the fact that the Consulting Engineer would be in a place which is perhaps much more noted for its business activities and the extension of business activities than the City of Dublin. To that extent, and that extent only, was the advertisement put in for that place. But I will look into that point and see if there is anything wrong in it from the point of view of the status or the business of the State, and will also see that it does not occur again.

Mr. HENNESSY: The Minister did not say if he would grant the holding of the inquiry.

The PRESIDENT: I do not see what useful purpose an inquiry would bring about. First of all, as I said before, we are not experienced in running dockyards, and to have an inquiry there should be at least some experience with regard to the running of them. Objection has been made to the Board of Works, and it has been suggested that the Ministry of Industry and Commerce should take over the yard. I have no hesitation in saying that the Ministry of Industry and Commerce is perfectly satisfied with the proposal that we put forward. As regards the inquiry, if the inquiry has reference to this particular sum I say we will investigate that, but as regards an inquiry into the yard, and as to the disposal of the vessel full of arms and ammunition that went out of the yard, and into all the pieces of timber and machinery taken out, to that I say no. I do not see that any useful purpose would be served by such an inquiry.

Question put and agreed to.

AN CEANN COMHAIRLE: That now concludes the consideration of all the

Estimates. The resolutions passed on the Votes will be reported to-morrow.

THE DAIL RESUMES.

The PRESIDENT: I propose to take the First Reading of the Appropriation Bill to-morrow and the Report of the Resolutions.

AN CEANN COMHAIRLE: We shall have to report the Resolutions passed in Committee and we shall take the Report to-morrow. The Resolutions will be circulated, and that having been done, the First Reading of the Appropriation Bill can then be taken.

The PRESIDENT: I beg to move: "That the Dáil adjourn until 12 o'clock to-morrow."

QUESTION ON THE ADJOURNMENT—MILITARY MOTOR LORRIES.

ALLEGED NON-COMPLIANCE WITH TRAFFIC REGULATIONS.

Mr. A. BYRNE: I beg to raise the question, of which I have given notice, as to non-compliance by military motor cars with the traffic regulations in the City of Dublin.

I desire to refer briefly to the extraordinary speed at which motor lorries dash through our streets at night without either lights in front or at the rear. In some cases, and in thickly populated areas, they go at the rate of from 40 to 50 miles an hour. I am sure it is only necessary to make reference to this matter and to draw the attention of the Minister for Defence to it, because I feel confident that, having done so, he will issue instructions to say that there is no necessity for this excessive speed in the heart of the city, and that he will also issue instructions to have the traffic regulations enforced, so far as military lorries are concerned. I am not raising this question entirely on my own. It was brought to my knowledge by people calling to the Mansion House, calling to me more or less in my official position and asking me if I would raise the matter. No later than this morning I had a visitor complaining that last night on the North Strand Road, evidently going to or from the Clontarf district, that cars dashed up around Amiens Street Station and down Talbot Street at a very high speed.

While I will allow for exaggerations on the part of the persons making the complaints, they said that without doubt the cars dashed up at the rate of 40 or 50 miles an hour. Even at that late hour, with the extension of summer time, there were children on the street, and when the cars dashed up it was a case of helter-skelter for the passers-by crossing the thoroughfares. It was a case with some of them of almost losing their lives. I merely ask now that the Minister for Defence will see that the Chief Commissioner of Police is helped to carry out the traffic regulations of the city, which he has so ably handled within the last two months. I desire to take advantage of this opportunity to pay a tribute to the Commissioner of Police for the very able way in which he has dealt with the traffic regulations in the City of Dublin.

General MULCAHY: I have had cases of complaints brought before me from time to time in the Dáil. There have been in force definite regulations on this matter of both speed and the general control of and use of cars, and not later than Monday last, the 23rd of this month, a special Order, bearing that date, was issued controlling the speed of cars, and drawing attention to traffic regulations, and asking that very special attention be given to those regulations and requirements of both the Military and Civil Police. In cities, towns, and villages the speed allowed, according to the Order, for lorries and heavy transport vehicles is four miles an hour, and in the country for such vehicles twelve miles an hour; light transport vehicles, twelve miles in cities, towns and villages, and in the country twenty miles an hour; despatch riders in cities, towns and villages twelve miles an hour and in the country twenty miles an hour. Special instructions are issued to see that as well as conforming to those maximum speeds in the military Order all local speed regulations are attended to, and all Orders, whether from the Military or Civil Police authorities, are readily attended to. I anticipate whatever cause of complaint there exists at the present moment in respect of speed will be removed. I have not yet had brought to my notice that cars were travelling without lights. I will see that suitable instructions are issued.

Mr. A. BYRNE: And numbers.

Mr. LYONS: Some time ago, speaking on the Army Estimates, I mentioned the fast traffic of the military lorries through the country. The Minister

should also include the country. It is more dangerous there even.

The Dáil adjourned until Friday, 27th July, at 12 o'clock.

DÁIL ÉIREANN.

DE HAOINE, 27ADH IÚL, 1923.

(Friday, 27th July, 1923.)

Cromadh ar obair an lae ar a 12.12 p.m. Bhí an Ceann Comhairle, Micheál O hAodha, sa Chathaoir.

CEISTEANNA—QUESTIONS.

[ORAL ANSWERS.]

DUBLIN MAN'S DISAPPEARANCE.

AILFRID O BROIN asked the President if the Government have already instituted any inquiries which would assist in throwing any light on the circumstances surrounding the disappearance of Mr. Noel Lemass, which took place on Tuesday, 3rd July, 1923, in broad daylight, in a much frequented thoroughfare of the city.

MINISTER for HOME AFFAIRS (Mr. K. O'Higgins) replying for the President: Inquiries from official sources have failed to throw any light on the alleged kidnapping of Mr. Lemass, and similar inquiries have failed to confirm the recent rumour that his body had been found near Chapelizod.

Mr. JOHNSON: Can the Minister say whether the official inquiries have included examination of the person who was with Mr. Lemass when he was arrested?

Mr. O'HIGGINS: I could not say. I have inquired from three Police Departments, from the Dublin Metropolitan Police, from the Civic Guard and at Oriel House. I do not know what steps have been taken, but I asked them to make the fullest inquiries with a view to throwing any light on the matter, and they have not been able to confirm either the allegation of kidnapping or the rumour with regard to the finding of the body.

Mr. JOHNSON: Does the Minister say that they have not been able to confirm the allegation of kidnapping, while at the same time he does not know that the person who was temporarily kidnapped at the same time that Mr.

Lemass was taken has not yet been seen by any of the detectives or police departments?

Mr. O'HIGGINS: I did not say that he had not been seen.

Mr. JOHNSON: But it is the fact that he was not, or at least that he had not been up to a couple of days ago.

Mr. O'HIGGINS: I am not in a position to contradict that. We have not been able to discover his whereabouts, and we have not been able to confirm the rumour as to the finding of his body.

WESTMEATH CO. COUNCIL
GRANTS.

SEAN O LAIDHIN asked the Minister for Finance when it is proposed to pay to the Westmeath County Council the balance of £20,000 due on account of grants withheld, and whether he is aware that the Council is in a serious financial position owing to the failure to pay over this balance; and further, to ask when the sums due to the Council in respect of motor taxation will be paid, as the money is urgently needed to give employment on the roads.

The PRESIDENT: (Minister for Finance): As pointed out in answer to a previous question on this subject by the Deputy, the claim of Westmeath County Council in respect of grants formerly withheld by the British Government was settled in September last, subject to minor adjustments, by a payment of £18,614 1s. 3d. This amount did not include Estate Duty Grant for 1921-22 and half of the Agricultural Grant for the same year, as these moneys were retained in the Guarantee Fund in connection with charges under the Land Acts. The question of the release of these latter amounts out of the Guarantee Fund is at present under consideration.

The latter part of the query, in regard to motor taxation, should be addressed to the Minister for Local Government.

There have been large demands on the Guarantee Fund in respect of the non-payment of land annuities.

ELECTRICAL MACHINERY IN
GOVERNMENT TRAWLERS.

DARGHAL FIGES asked the Minister for Finance if he will state if orders were given to fit the motor trawlers re-

[Darghal Figes.]
cently purchased by the Government with electrical machinery; if so, at what price per trawler those orders were given; and if such orders were recently cancelled by the Government.

The PRESIDENT: As I stated on Wednesday last, the purchase of certain electrical equipment for these trawlers has been for some time under consideration by the Minister for Defence and myself, but, with the exception of one wireless set, no orders have been placed.

WESTMEATH CO. COUNCIL'S REFUSAL TO STRIKE SIXPENNY RATE.

SEAN O LAIDHIN asked the Minister for Local Government whether he is aware that the Westmeath County Council have refused to strike the sixpenny rate required to be levied under the Damage to Property (Compensation) Act; and if he will state what action he proposes to take in the matter.

MINISTER for LOCAL GOVERNMENT (Mr. E. Blythe): The County Council have, up to the present, failed to make any rate, either poor rate or special rate, in respect of the current financial year. This omission would cause grave dislocation in the public services of the county and hardship to the poor and the sick. I have full powers to meet this unprecedented situation under Section 12 of the Local Government (Temporary Provisions) Act, and if necessary the County Council can be superseded and a Commissioner appointed to carry out their duties. Section 14, Sub-section 4, of the Damage to Property (Compensation) Act provides machinery for securing the due collection of the special 6d. rate. In the event of the County Council refusing to raise this sum only, the necessary amounts must be included by the Secretary of the County Council in the receipts and demand notes, and I will insist upon compliance on the part of the officials.

The Deputy may rest assured that, notwithstanding any failure on the part of the County Council, all necessary rates will be assessed and collected.

PAYMENTS IN RESPECT OF RATES TO LOCAL AUTHORITIES.

SEAN O RUANAIDH asked the Minister for Local Government what is the

total sum payable in respect of rates to local administrative bodies in the Saorstát for the current financial year.

Mr. BLYTHE: Owing to the fact that rates have not yet been struck in all counties, I am not yet in a position to give the information required.

TEIDIOL I mBEURLA.

D'fíafuigh TOMAS O CONAILL de'n Aire um Ghnóthaí Dúitheche cé an fáth go bhfuil na focla "Civic Guard Station" i mBeurla os cionn an dorais ar árus na nGárda Síochána i gCathair na Gaillimhe, i gceart-lár na Gaedhealtachta; cé an fáth nách bhfuil focla i nGaedhilg ar an mbearraic seo; agus an dtabharfaidh an t-Aire ordú anois chun na focla Beurla do sgrios amach agus focla Gaedhilge do chur suas i n-ionad.

CAOIMHGHIN O HUIGIN: Bhi an t-áitreabh á dheisiú le déanaí agus nuair a bhí an deisiúchán a chríochnú ag an gconnrathóir, do chuir sé suas na focail dá dtagartar i gan fhios do Lucht Ceannais an Ghárda agus gan a gcead d'fháil. Táthar ag féachaint chun an scéil anois.

CITY LIFE ASSURANCE CO., LTD.

TOMAS MAC EOIN asked the Minister for Industry and Commerce whether his attention has been drawn to the winding-up of the City Life Assurance Company, Limited, and the effect this may have on Irish policy-holders; and whether his Department can take any steps to ensure that the interests of these policy-holders will be safeguarded.

Mr. BLYTHE: The attention of the Ministry has been directed to the winding-up of the City Life Assurance Company, Limited. The company is registered in England, and the compulsory liquidation commenced before it became obligatory to make separate deposits in this country for the security of policy-holders. Irish policy-holders will, however, share as creditors in the available assets of the Company. The Ministry is following developments closely, and will take any steps within its powers to safeguard the interests of Irish policy-holders.

Mr. JOHNSON: Is the Ministry following closely the affect of that new regulation upon policy-holders? I hope the Ministry is keeping its eyes wide open in that respect.

REPAIRS TO "HELGA."

TOMAS MAC EOIN asked the Minister for Fisheries whether the work on the s.s. "Helga" recently sent to Belfast for repairs, has been completed; if not, how soon is it expected that this vessel will be ready for service; whether he can state what is the cost of the repairs executed in excess of the original estimate.

MINISTER for FISHERIES (Mr. F. Lynch): The work has not yet been completed. It is expected that the overhaul will, if nothing unforeseen occurs, be finished about the 21st proximo. The actual expenditure to date in excess of the original estimate is £215.

Mr. JOHNSON: Would the Minister say what the estimated total cost of the extras will be?

Mr. LYNCH: I understand it would be something more than the original Dublin tender by about £200 for the obvious repairs.

Mr. JOHNSON: There has been £215 extra already on it, and there is to be another month's work.

Mr. LYNCH: I mean the total cost will exceed the original Dublin estimate by about £250. That is including the costs of the unforeseen repairs.

Mr. JOHNSON: If the Minister will tell us what the original Dublin estimate was, we might be able to calculate what the meaning of his answer is.

SALE OF MAYO ESTATE.

LIAM MAC SIOGHARD asked the Minister for Agriculture if his attention had been called to the fact that a certain Mayo estate is being sold at present and distributed on lines calculated to increase and stereotype congestion, and if, in the national interest, any steps can be taken to prevent this grave injustice to the un-economic landholders in the neighbourhood.

MINISTER for AGRICULTURE (Mr. P. Hogan): Attention has been drawn to the reported proposal to sell a demesne in County Mayo. The Government cannot interfere with an owner's right to sell his property, but the sale of property or the creation of freeholds or tenancies now does not in any way interfere with or modify the right of the Com-

missioners under the Land Bill to acquire land compulsorily for the relief of congestion.

AN ATHBOY ARREST.

CATHAL O SEANAIN asked the Minister for Defence if he can state the reasons for the arrest, some three weeks ago, of John McCormack, Derrylangan, Athboy, Co. Meath; what charge, if any, has been preferred against him; and whether the Minister can now authorise his release.

MINISTER for DEFENCE (General Mulcahy): Mr. McCormack was arrested in connection with an armed raid on the house of Mr. Simmonds, of Meadstown. The question of preferring a charge against him is under consideration.

COMPENSATION TO ENNISTYMON LADY.

TOMAS MAC EOIN (for LIAM O BRIAN) asked the Minister for Defence whether his attention has been called to the delay in payment of the compensation awarded to the widow of Thomas Connole, of Ennistymon, who was shot and burned in his house by Black-and-Tans in September, 1920; and whether he will take steps to expedite payment of a substantial sum on account of the £4,725 awarded by the County Court Judge.

The PRESIDENT: This question has been addressed to the Minister for Defence, but it concerns my Department. I hope to be in a position to discharge the decree in this case during the coming week.

[WRITTEN ANSWER.]

A LEIX ARREST.

LIAM O DAIMHIN asked the Minister for Defence if he can state the reason for the arrest of Michael Dooley, on May 22nd, 1923, at Upper Ballickmoyler, Leix, and seeing that he denies having had any connection with Irregular forces, if he will agree to recommend his immediate release.

General MULCAHY: Michael Dooley was released to-day.

QUESTION ON ADJOURNMENT.

Mr. ROONEY: I beg to give notice that I will raise on the adjournment the

[Mr. Rooney.]

question of the advisability of the Government extending the time for the settling of malicious injury claims.

AN CEANN COMHAIRLE: You mean the advisability of the Government extending the time in the Damage to Property Act?

Mr. ROONEY: Yes, the date in the Act.

AN CEANN COMHAIRLE: Would not that require legislation?

Mr. ROONEY: It would. I would like to ask the Government to consider that matter.

AN CEANN COMHAIRLE: The matter then to be raised is the advisability of introducing legislation to extend the time for the settlement of malicious injury claims under the Damage to Property (Compensation) Act, 1923.

The PRESIDENT: The date in the Bill is the 20th March. Does the Deputy mean that he intends to press for an extension of the date?

Mr. ROONEY: Yes, I wish to ask the Government to extend the date so as to relieve the rates.

Mr. SEARS: I would like to support that.

Mr. JOHNSON: I was going to give notice that I will raise on the adjournment the question of the failure of the Government to make careful inquiries into the case of Mr. Noel Lemass.

AN CEANN COMHAIRLE: I think that will have to stand over now, in view of the other notice given.

THE PURCHASE OF TRAWLERS.

Mr. DARRELL FIGGIS: There seems to be some congestion of matters to be raised on the adjournment. I wanted to raise this question of trawlers. May I be permitted to give notice of this question for Monday? You allowed a similar thing to be done a week ago. It is not a matter for haste, as these others would appear to be.

AN CEANN COMHAIRLE: If we were to go on that particular principle, which I have not actually adopted, De-

puty Johnson would appear to have the prior right. He gave prior notice.

Mr. DARRELL FIGGIS: Mine is not a matter that there is violent haste about, but there are certain matters connected with it that are necessary to raise in the public interest.

AN CEANN COMHAIRLE: If the Deputy gives notice on Tuesday, perhaps it could be raised.

COMMITTEE ON FINANCE.

MONEY RESOLUTIONS.

The PRESIDENT (Minister for Finance): I beg to move:

That, for the purpose of any Act of the present Session to provide for the winding-up of the Courts established under the authority of Dáil Eireann, it is expedient to authorise the payment out of moneys provided by the Oireachtas of—

- (a) the salaries and allowances of the Judicial Commissioners and Assistant Commissioners, the salary or remuneration of the Registrar of Dáil Court Decrees and of the Accountant of the Dáil Courts Fund, and the salaries or remuneration of other officers and staff;
- (b) such sums as the Minister for Finance may from time to time direct to be placed to the credit of the Dáil Courts Fund.

Question put and agreed to.

The PRESIDENT: I beg to move:

That it is expedient to authorise the payment out of moneys to be provided by the Oireachtas of any expenses authorised to be incurred under any Act of the present Session to make provision for superannuation and other allowances or gratuities, and to amend and extend the law relating to superannuation and the payment of pensions in Saorstát Eireann.

Mr. O'CONNELL: May I ask the Minister does that Resolution cover all payments to be made under the Superannuation Act?

The PRESIDENT: Yes.

Mr. O'CONNELL: I might explain the reasons why I asked that question. Section 5 of the Act makes provision for certain increases to pensioned teachers.

Is it proposed that these payments be made out of moneys to be provided by the Oireachtas, or are they to be paid out of the Teachers' Pension Fund?

AN CEANN COMHAIRLE: I think the motion as drafted would leave such a course open.

The PRESIDENT: I do not quite understand the point.

AN CEANN COMHAIRLE: There is a Teachers' Pension Fund with a capital sum. Then there are the moneys provided by the Oireachtas. The Deputy desires to know whether the proposed increases in pensions are to be provided out of the Teachers' Pension Fund or by the moneys voted by the Oireachtas.

The PRESIDENT: Some of it will be provided by the Oireachtas and some, of it by the Teachers' Pension Fund.

Mr. O'CONNELL: The position is this. Each year an amount is voted to the Teachers' Pension Fund, a grant in aid. That sum has not varied for several years past. Is it proposed to increase the grants in aid to the Teachers' Pension Fund in order to enable it to pay this increase, or is it simply proposed to meet these claims out of whatever sum is standing in the Teachers' Pension Fund, or will it mean any increased Vote? There is a considerable sum standing to the credit of the Teachers' Pension Fund. Is it proposed to draw on this Fund without making any increase in the Vote?

The PRESIDENT: It will be necessary to increase or to draw upon a sum not provided for in that Vote so far as this Act is concerned. The sum is in the neighbourhood of £13,000. My recollection is that it is about £13,000, that is the last figure I got.

Question put and, agreed to.

THE DAIL RESUMES.

Resolutions reported.

The PRESIDENT: I move that the Dáil agree with the Committee in the said Resolutions.

Agreed.

FINANCE (No. 2) BILL, 1923.

SECOND STAGE.

The PRESIDENT: I beg to move the Second Reading of this Bill. It is a Bill

to provide exemption from income tax for 1923-24 to National Health Insurance Authorities in Great Britain and Northern Ireland. I explained the purpose of this Bill yesterday, and perhaps it ought to have been dealt with under the Finance (No. 1) Act, but in the pressure of the various matters that had to be attended to then this was overlooked, and it is to provide for that that the Bill is now before the Dáil in this form.

Question put: "That the Bill be read a second time."

Agreed.

AN CEANN COMHAIRLE: When is it proposed to take the Committee Stage?

The PRESIDENT: Monday, July 30th. It is a non-contentious measure, and it is really fulfilling part of our bargain. I do not think there will be any amendments.

Committee Stage ordered for Monday, July 30th.

ESTIMATES FOR PUBLIC SERVICES.

REPORT—RESOLUTIONS OF SUPPLY AGREED TO.

AN CEANN COMHAIRLE: The Votes passed in Committee on Finance have been circulated to Deputies, and Deputies have received to-day the motions which require to be made on Report.

The PRESIDENT: I move: "That the Dáil agree with the Committee on Finance in the Resolutions of Supply reported in respect of the several Estimates."

Agreed.

COMMITTEE ON FINANCE.

MOTION BY THE PRESIDENT.

The PRESIDENT: I move: "That towards making good the Supply granted for the service of the year ending on the 31st day of March, 1924, the sum of £31,312,811 be granted out of the Central Fund."

Agreed.

THE DAIL RESUMES.

Resolutions reported.

The PRESIDENT: I move: "That the Dáil agree with the Committee in the said Resolution."

Mr. JOHNSON: I take this opportunity, as I will not have it again before the afternoon, to point out that I desire to draw attention to the failure on the part of the Criminal Investigation Department to pursue inquiries into the alleged arrest and detention of Mr. Noel Lemass. The information that reached me from the father was that, I think, as late as Tuesday of this week Mr. Devine, who was accompanying Mr. Lemass at the time he was taken, and who himself was taken through the streets as far as Oriel House, and there diverted to another direction, had not been approached by the Criminal Investigation Department, though it was publicly known that Mr. Devine had been arrested. One would have thought that the most obvious and immediate concern of the Criminal Investigation Department would have been to see Mr. Devine and find out all about the circumstances of his arrest and the arrest of his companion. But up to the early part of this week at any rate he was not approached by any police authorities, by any detective department, any civic protection force, or any other police officials. That is a most extraordinary state of affairs, and one cannot account for it. One can only say that there is some blindness, or deafness, or dumbness, or opacity somewhere, and in view of the failure to interview Mr. Devine, what can we think of the kind of inquiry that the authorities have been making into the arrest and detention of this man? Is it that the Departments are to go all round the world before they arrive at the primary duty to interview the man who is, of all men, the most liable to throw some light on the arrest of Mr. Noel Lemass? That, I think, is the question that I put, with a very big query. I take this opportunity, which has rather providentially arisen, inasmuch as I would not be able to take it on the adjournment, to ask that question now, and I ask some Minister to give an explanation.

The PRESIDENT: I understood that the Minister for Home Affairs went away to make inquiries about this particular case. I am not in a position to give any further information to the Dáil than to say that from the first moment that we were informed of this incident

we realised the necessity of taking action immediately to get all possible information on the subject. I interviewed myself two Departments immediately concerned, and there was naturally not much to go on. I should say that I deprecate, and the Executive Council deprecates, and I believe every member of the Dáil deprecates any action by private individuals or by officials of the Government in arresting, or apprehending, or kidnapping, or interfering with the liberty of any citizen except in the manner prescribed by law. I say that we condemn unhesitatingly any overt act by any person affecting the liberty, or the life, or the property of any citizen, and every effort will be made by the Government to correct any abuses of that nature which occur. We condemn any interference with the liberty or the rights of the people who are citizens of the State, or who are not citizens of the State, but who may be in this country. It may happen that after the turbulent period through which we have passed cases may occur in which persons have got grievances of one sort or another. It may occur, and I hope it will not, but if it does the entire resources at the disposal of the Executive authorities will bring such people to justice not from any spirit of revenge, but from the natural conception we have of our duty to every section of the community. I had hoped that, having regard to the natural developments towards more ordered conditions that have been noticeable for the last few months, we might pass through this semi-normal state without any abuses creeping in. If there be abuses, if there be taking of life, we will exhaust all the resources of the State to bring to justice the persons responsible for such abuses. I hope that every citizen will lend his or her aid towards making life possible, peaceful and normal.

Mr. JOHNSON: Mr. Devine is prepared to lend every assistance to the authorities, who would naturally be expected to interview Mr. Devine immediately. They had not done so up to the early part of this week.

The PRESIDENT: I believe the Minister for Home Affairs left his place here in order to look after that.

Question put and agreed to.

APPROPRIATION BILL, 1923.**FIRST STAGE.**

The PRESIDENT: I move for permission to bring in a Bill to apply a sum out of the Central Fund to the service of the year ending on the thirty-first day of March, one thousand nine hundred and twenty-four, and to appropriate the further supplies granted in this Session of the Oireachtas.

Agreed.

Second Stage ordered for Monday, July 30th.

Mr. O'HIGGINS: I am sorry I was absent when Deputy Johnson raised the matter of Mr. Lennass. I would be glad to be permitted to intervene for three or four minutes on the adjournment later on.

AN CEANN COMHAIRLE: Very good.

REPORT ON ACCOMMODATION FOR OIREACHTAS.

AN CEANN COMHAIRLE: The report of the Joint Committee on Accommodation for the Oireachtas has been received. Deputies will remember that by resolution of the Dáil, subsequently agreed to by the Seanad, a Joint Committee was appointed to report on how suitable accommodation for the Oireachtas might best be provided. I was Chairman of the Committee, and the report is presented to the Dáil to-day. In accordance with the resolution, it was prescribed that the report would have to be presented not later than to-day. The report recommends that a Commission should be appointed to go into the question of permanent housing for the Oireachtas, and in view of the fact that the Committee had to report by to-day, they were not able to agree on any recommendation regarding temporary accommodation. The report is now before us, and can be considered now, or consideration of it can be postponed according to the desire of the Dáil.

The PRESIDENT: I think I have, on more than one occasion, directed the attention of the Dáil to the fact that the accommodation which was here both from the point of view of the Government and the Oireachtas was totally and entirely insufficient. On more than one occasion you, sir, directed my attention

to the fact that you had insufficient accommodation for your own staff, and we have been unable to provide members of the Oireachtas with the ordinary facilities essential to the members of legislative bodies such as this in order to enable them to carry on their duties properly. I observe that in some of the election addresses attention has been directed to the advisability of securing what is called the Old House in College Green as the home of the Oireachtas. Now, we are concerned with, first of all, suitable accommodation for the Oireachtas for some years. If the Oireachtas decide that they will get possession of the old House of Parliament it will not be possible, so far as our information goes, to have the accommodation necessary for their ordinary work provided within the next three or four years, and in addition to that there is the question of the cost. More than once attention has been directed to the necessity of conserving the national resources, and some criticism was passed on various developments that may possibly take place within the city the capital of the country, in the next few years. One newspaper published the fact that we wanted palatial residences and great institutions for the officials of the Government and the Government itself, and a secondary consideration was the provision of necessary housing for the people of the city. We had all these things in mind. We have been associated with a movement which has attracted the attention and baffled the genius of more than one generation in the city of Dublin in endeavouring to improve the housing accommodation of the people. On that ground, and on the ground of the condition of our finances, I am not satisfied to make any proposal to the Dáil, in my position as Finance Minister, for the huge expenditure of money for the provision of Houses of Parliament. The plans which were prepared at the direction of the Executive Council were prepared having that in mind, and also having in mind suitable accommodation which would enable the Oireachtas to discharge its duties for some years to come.

I quite understand that this committee has not had very much time to concern itself with the subject that we have put before it, but it is, if we needed it, one more piece of evidence of the difficulties that confront the Executive Council in

[The President.]

its duties. For some time we have had this matter under consideration, and it appeared to us that the least possible inconvenience would be given to the community as a whole by taking over the premises of the Royal Hospital. We were not committed to it. Nobody had any particular liking for it. It was a case of having to make a virtue of necessity. Now, having regard to the fact that this responsible Committee of both Houses were unable to come to any agreement, I presume, having regard to the nearness of the General Election, it is not possible to take action towards providing the new body of 153 members with anything like suitable accommodation. I think that members will admit they have had to put up with very serious inconvenience both to themselves and the business of the Dáil by the very meagre accommodation afforded to them here. Our situation here as a Government has depended entirely on the goodwill, temper, and co-operation of the staffs. We had to use very large portions of the College of Science. A rather important section of the Ministry of Defence is housed there, and some people have come to the conclusion that we are likely to stop here in this building, the property of a rather important institution in the country, imposing limitations on the public by excluding them from the Museum and other public institutions. That is a limitation we have considered for a long time, a very unfair discrimination against the public.

It appeared to us that the best thing to do was to set up this Committee, and now we have been unable to get any assistance towards the immediate provision of suitable housing accommodation. A delay will naturally occur by reason of the fact that a constructive proposition is not put up by this Committee. This delay will seriously inconvenience the new House and impair to some extent the usefulness of the Government machine. It appears to me to be fairly obvious that we are to be committed to College Green. I have no objection to that whatever. If the sense of the country be for College Green, I accept it. But I do point out that the present condition of our finances does not warrant the taking up of that particular proposition, and I do not know that it will be possible to

continue as we are at present for three or four years, even if College Green be decided on. I mention three or four years, because the length of time put up to me to take to make College Green available is five or six years. The sum of money is anywhere from a million to two million pounds. The actual estimate I received is in the neighbourhood of one and a half millions. I questioned that, and on examination cut it down to £1,100,000, but I was informed later that it could not be effected for that amount. I think the Dáil knows, as far as the Executive Council is concerned that it discharged its duty to the Oireachtas to the best of its ability. In suggesting the housing of the Oireachtas in Kilmainham we had in mind that it was the most suitable place in the circumstances, that it could be made available at a minimum of expense, and afforded a maximum of accommodation. I take it the opinion of the Dáil is that nothing can be done on this just now, and that the matter will have to be raised after the elections are over.

AN CEANN COMHAIRLE: Will the President move that the report be adopted, or that the report be received and considered at a later date?

The PRESIDENT: I move that it be considered later.

AN CEANN COMHAIRLE: Would you fix a date for the consideration? The adoption of the report would mean that a decision had been taken to set up a Commission, including experts with regard to permanent accommodation.

The PRESIDENT: Yes. I think the first resolution would be that the report be received and considered at a later date. If the Dáil thinks that a Commission, including experts, should be appointed, I have no objection, but I think we should fix a time in which we should get a report. If the report is not received in that time the Commission lapses.

AN CEANN COMHAIRLE: The motion is that the report be received and considered at a later date.

MINISTER FOR EDUCATION (Professor Eoin McNeill): I second.

Mr. JOHNSON: I think the last statement of the President that he has only just seen the report must be taken

as an excuse for the line he has adopted in attempting to throw the blame for no decision having been come to on the Joint Committee. It seems to me the President has misunderstood the position entirely. It will be in the recollection of the Dáil, I think, that as long ago as three months back, perhaps longer, a promise was made that before any decisions were taken regarding the future housing of the Oireachtas, members of the Seanad and Dáil should have an opportunity of considering the matter. That promise was made effective by introducing this resolution on July 10th, and the Committee was appointed with instructions that it had to report on July 27th after examining the plans and considering the question as fully as such a Commission or Committee ought to do. Surely the blame, if there is any, for not having come to a decision is not upon this Committee. After all, these two weeks or so that have elapsed since the Joint Committee was set up have been pretty full, and inquiries had to be made. In fact, within the time that was fixed possible sites that were mentioned for temporary housing have not been viewed and reports respecting those places have not been considered. It is not fair to the Dáil, it is not fair to this Committee, to suggest that the responsibility for not coming to a decision in this matter is upon the Committee, when there have been three or four months during which time the President could have called such a Committee into existence. Nobody knew there was going to be sudden talk of a General Election. It was not the fault of the Committee that it became necessary to have this decision before the end of July. Further, I think the President is entirely misunderstanding the position of some of the members of the Committee, at any rate, in saying that they have apparently made up their minds that College Green must be the home of the new Oireachtas. If he would read the resolution he would see that in the first line it says that, without desiring or intending to prejudice the decision as to the permanent site for the Oireachtas, some inquiries should be made by experts. There was certainly no intention to prejudice that in the minds of some of the members, at any rate, who agreed to that motion, and the question that was under consideration and that has to be considered is the temporary

home. It was with a view to the temporary accommodation that members, I think, generally felt that they needed to have some further information as to alternative places besides the Royal Hospital. I think the President should not feel hurt, as he appears to, because the Committee did not fall into immediate agreement with the wishes of the Government in this matter. It may be that there is no other place that would be as suitable or cause less inconvenience, but the Committee has not yet had an opportunity to decide whether that is so or not. I think it is quite possible to prove before that Committee that the adoption of the Kilmainham building would cause less inconvenience than any other site, but we have not had an opportunity to examine that question. We have had an opportunity to examine the plans and the possible accommodation in the Royal Hospital, but nowhere else. We do not even know what the possibilities are in regard to this building here. All I want to say is that the President is unfair in imputing blame to this Committee for not having done in a fortnight what the Ministry have failed to do in six months.

Professor MAGENNIS: A French cynic has declared that when a man asks you advice what he really desires is a confirmation of his own decision. When the honour was done me of appointing me a member of this Joint Committee I was not aware of the fact, which the President has just disclosed, that the Executive Council recommended the Royal Hospital, Kilmainham, as the seat of the temporary home of the Oireachtas. What may have been the state of mind of my colleagues in the Committee I cannot say, but I know that I went with others to inspect that place with a wholly unprejudiced mind. I knew nothing about it or its resources, nor was I even suspicious that anyone in power desired to have it selected. It is not disclosing the secrets of the prison chamber too much to say that I saw no manifestation of delight or of satisfaction, even of a modified character, in any of those who did inspect the building. It was a rather curious thing that when the Committee sat down in one of the halls of the institution in question what it discussed was the possible resources of Leinster House, so little was it impressed with the facilities and opportunities presented there.

[Professor Magennis.]

As regards the suggestion that it is a pity that nothing constructive—I think those were the words of the President—could have emanated from the Committee, let me say, as we are put on our defence by that remark, that there was an abortive meeting of the Committee on Tuesday, 24th, at which nothing could be done because there was not a quorum from the representatives of the Dáil. As far back as March, I think it was—if not March it was May—I myself standing here protested against an attempt to deal with the permanent housing of the Parliament of the Free State by this present Parliament, and proposed that it would be much more fitting and a more defensible action altogether to leave that over for the consideration of a new Parliament after the General Election. To that opinion I adhere, and that is practically what is involved in the one resolution which was passed by this Committee:—

This Committee, without desiring or intending to prejudice in any way the decision as to the permanent site for the Oireachtas, recommend that a Commission, including experts, should be appointed at an early opportunity to inquire and report to both Houses as to suitable and available sites for the permanent housing of the Oireachtas, including the probable expense and time involved in the acquisition and conversion to this purpose of the old Parliament House in College Green.

The reference to the old Parliament House in College Green, I may explain, was made with the express purpose of showing neutrality. It does seem as if there were a certain amount of advocacy of it by the special mention of it, but the truth is it was felt that not to mention it, with so much public notice being given by way of speech and letters to the Press, would appear rather to have taken a determination to exclude it. Really, whether the Committee has succeeded or not in formulating a resolution which is absolutely neutral, I can answer for it that the intention was to be absolutely neutral, and to leave this important question to the decision of another Parliament. Now, the solution of the lesser problem, if it be a lesser problem, of providing temporary accommodation is a thing of exceptional difficulty. I do not

think anyone is to blame in the matter, or ought to be blamed, and the unfortunate thing is that the date fixed here precluded any opportunity being given to the Committee for inspecting further any of the suggested locations, and so we are victims of circumstances. It is neither ineptitude, nor a want of the will, nor failure of energy on the part of the Committee that is at fault, but simply we have to bow to the inevitable as regards the situation which was created for us, and not by us.

Mr. GOREY: As another member of this Committee, I think it is due to me to make my position clear. This resolution was, I think, agreed to at the first meeting.

AN CEANN COMHAIRLE: No.

Mr. GOREY: Well, at the second meeting at the Royal Hospital.

AN CEANN COMHAIRLE: Yes.

Mr. GOREY: It does not matter very much. This Committee, to my mind, did not get a chance of being helpful, or of considering the matter, or of coming to a decision. The time was short, but even the little time we had was not availed of. Our first meeting was held in the Committee Room of the Seanad, and the next meeting—I think it was July 19th—was at the Royal Hospital. A big number of the Committee selected by the Seanad attended, and the Ceann Comhairle, Deputies Magennis, Johnson, Davin, and myself from the Dáil. There was no other member from the Government benches, although they had ample representation. Another meeting was held on the 24th July, at which only Deputy Magennis and myself attended. That meeting was abortive and nothing could be done, as the other representatives from the Dáil did not attend. I had intended to say, and I say it now, with a clear conscience, as the President has confirmed my opinion, that when this Committee was appointed the intention in someone's mind was that it was to consider the Royal Hospital, Kilmainham, and nowhere else. The Committee did not know that they were bound within four walls as closely as that. They thought they had a free hand, and proceeded to make other suggestions, in-

cluding Dublin Castle and other places around the city. I do not think it is quite fair to charge this Committee with not having come to a decision. I do not think the Committee was meant to come to a decision, except one particular decision. We did not know what the plans of the Executive were, or if they had cut-and-dried plans, and that the location was to be at Kilmainham and no place else. We thought we had a free hand to be helpful if we could. Personally, I must say that most of the members of the Committee who attended the meetings had a very sincere desire to be helpful and to find a temporary home, leaving the question of a permanent home to the new Dáil and the new Oireachtas. Things improved yesterday to the extent that representatives of the Government did attend, at least sufficient of them, to decide that we could do nothing. It was not for the Committee without expert advice, to decide the question of a permanent home, although I am sure it would be guided by the time in which other sites could be made ready for our use and also the cost. I am sure that the Committee would take everything into consideration, but none of these things were put before it.

We had only the plans of certain architects with regard to one building alone, and no more. As one of the Committee, I had a sincere desire to be helpful, and if this Dáil is going to have a free voice with regard to where its temporary home is going to be, every suggestion as regards sites that has any reason in it at least should have been inspected by that Committee. As Deputy Magennis has said, a great part of the discussion in the Royal Hospital, when the meeting was held there, was as to the available room in this house of the Royal Dublin Society and the intention of getting the whole house, and the question of how far the whole house could be acquired was discussed. There were other suggestions. We are told now that the Law Courts have taken up Dublin Castle, and cannot be removed. I do not see why they should not be removed if necessary. The temporary housing of the Oireachtas at the moment is the big question, and the one we have to solve; the question of the housing of the Law Courts is a small one in comparison. It was the unanimous view, practically speaking, of the

members of the Committee that attended in Kilmainham that for many reasons the building was unsuitable. They did not seriously consider the site from the permanent point of view at all. The whole discussion turned upon accommodation elsewhere. The Committee did not get a chance to consider any other buildings, and, as a matter of fact, did not consider any other buildings or discuss any other buildings but the one building.

The PRESIDENT: I would like to correct the view that apparently has got into the minds of several people that I am committed to Kilmainham. I am not committed to it, except to this extent only, that it is the cheapest and most suited that I can see. If there is any other as cheap, and that will afford the same accommodation, I would prefer it, and much prefer it. I regard, rightly or wrongly, the resolution adopted here as something which postpones any action being taken upon this matter. I do not know whether that was in the minds of the members of the Committee or not.

Members of the Committee may not be aware that within the last month or six weeks we had a visit from a deputation of the Royal Dublin Society. The Society has been very generous in giving this accommodation to us here, and there is, as I said before, the Museum to be considered, and the other institutions around it. Members can, of course, accommodate themselves at the expense of others if they so desire, but it was never the intention of the Executive Government to shove any particular institution forward to the prejudice of others. But at least we put this, and we observe that it has not been referred to in the discussion, that some place other than this should be taken, and that there should be greater accommodation than there is here. To that extent we expect that the consideration of this matter would be a matter of some moment to the Committee. Now, it is mentioned by Deputy Gorey that the Government did not attend. There is only one member of the Government dealing with this particular matter from the beginning—namely, the Minister for Local Government, and he is the only member of the Government that is a member of this Committee.

Mr. GOREY: I did not say the members of the Government did not attend.

[Mr. Gorey.]

I said members sitting on the Government benches.

The PRESIDENT: I do not know who else sits in the Government benches but members of the Government. I am willing that a Commission be set up, but we have got no indication as to what type the Commission is to be, or who are to be the experts. It is extremely vague, and it appears to us, having regard to the representations made by the Royal Dublin Society and many people that the Museum ought to be opened, that some real effort should be made to get alternative accommodation. I do not say whether we should go to the Castle or not, but I would remind Deputy Gorey that the Courts are an important item in our machinery.

Mr. GOREY: I did not say they were not, but they are not as important as the Oireachtas.

The PRESIDENT: I do not think it wise to make comparisons in these matters, but it would not be easy to house the Courts elsewhere. It would not be easy to find other suitable accommodation for them, and a good deal of expenditure has already been incurred in making the Castle suitable. Criticism has been passed on the Government for the delay, but it was delay that was rather necessary. We were compiling information which was, of course, placed at the disposal of the Committee as it was ready. There was ordinary delay inseparable from matters of this sort, but there was no unreasonable delay.

If the Dáil is of opinion that a Commission ought to be appointed I am perfectly willing, but we have got no indication as to what sort this Commission should be. I am glad to see that a Committee of both Houses, some of the members of which at any rate have criticised Government action in appointing Commissions, now find themselves that a Commission is a very convenient avenue out of a difficulty. If a Commission is in the minds of the Committee, and if experts are in the minds of the Committee, every possible facility that can be afforded to that Commission and to those experts will be afforded them within the next month, but I think we ought to make it a condition that the Commission would report within a month.

Mr. JOHNSON: The Minister is speaking to an entirely different proposition. There are two propositions. One is a temporary house for the Oireachtas and the other is a permanent one. The permanent one, it is quite clear to everyone who has considered it, is not a possibility for five years at any rate, so let a Commission be appointed to go outside that proposition, and let it have time to report within the year. But in the meantime we are dealing with temporary housing. The question before the Joint Committee to decide upon within a fortnight was, how suitable accommodation for the Oireachtas could best be provided and to examine such plans as might be submitted to them. Plans of one place were submitted and they were examined, but the intention of the Committee was to examine any other plans that might be submitted, and to consider any other information that might be available. Surely that is not an unreasonable expectation for the Committee to entertain.

The question of Leinster House was certainly under discussion, and the hope was expressed that, if it were possible to make arrangements with the Royal Dublin Society, it might be found that this building could be made suitable and satisfactory for a temporary home for the Oireachtas, but there was no desire to keep the Museum occupied by the Seanad. It might be that if plans were submitted to show that Leinster House could not accommodate the Oireachtas satisfactorily, and if information could be supplied that a greater inconvenience would be afforded, then that plan, too, would have to be abandoned. The question of other proposals was made, and information was requested. It was pointed out, however, that before that information could be provided it was the duty of the Committee, by its terms of reference, to report to the Dáil, and that is the explanation of the indefinite nature of the report. The Minister may be able to satisfy all the requirements if he extends the time, or rather if the Dáil extends the time, from July 27th for a week or a fortnight. In that time we may be able to come to a definite resolution, having had plans and information at our disposal, but the Minister is utterly astray when he speaks of the permanent housing as having dominated the minds of the Committee. No doubt, some members of it were very anxious

to keep the possibility of College Green open, so that no decision should be arrived at which would preclude the possibility of College Green being ultimately the House of Parliament. But in passing this resolution, as Deputy Magennis has said, it was simply an attempt to get that away out of the minds of the Committee altogether, and to satisfy some public sentiment in the matter.

The question the Committee want to come to a decision upon, and on which it should have information before it comes to a decision, is the question of where the temporary home should be. As I have said, the plans of one such place have been put before us, and a visit has been made to that place, but no other plans, and only a small amount of information regarding possible alternative accommodation has been provided. Now, it could be provided probably within a day or two, but it was the duty imposed upon us by the original resolution to report on this date, the 27th July, that made it necessary for us to report in the indefinite way we have reported.* I think it would be desirable to ask this Committee to meet again, and see what other plans there are in existence, and what other information is available affecting alternative places. Then the Committee may be able to make a definite report to the Dáil before the dissolution.

CATHAL O'SHANNON: As one who is not a member of the Committee I would like to support Deputy Johnson's suggestion. Unless we are to read something into the report other than the face value of the words in the report, and no one would make a suggestion like that, considering the signature at the bottom of the report, I think it is clear that the Committee found it had not time, and that it had not information, to make a report on the temporary premises for the Oireachtas. There is not very much time now, perhaps only a week or two, but even in the week or two it might be possible if the Committee were asked to go again into the question of a temporary site. Everybody, I am sure, feels that there is a kind of obligation on this Oireachtas, or this Dáil, to make some sort of provision for the incoming Parliament. That is quite natural and quite proper, and it is equally right and equally proper that the new Parliament, which will be a much more representative Par-

liament than this, should make provision for the permanent site. Therefore, I would ask the Dáil and the President to agree to the suggestion that the Committee be asked to sit again and report before the dissolution on the temporary premises.

The PRESIDENT: I would be perfectly satisfied if the Committee would be willing to meet again, because I would be glad to have results. I would be glad if they would consult with the Royal Dublin Society. I was speaking to a deputation of the Royal Dublin Society about Leinster House, and they want to resume their occupation of it. It appears to me that after that resolution that has been passed there is no result. I want to see a result.

AN CEANN COMHAIRLE: As the question of accommodation for the Dáil—and that seemed for us to involve the question of accommodation for the Oireachtas—has been a concern of mine from the very beginning, I suppose I might be allowed to say something on it. We took over this theatre and a certain small number of offices in the beginning of September last, just before the Provisional Parliament was due to meet. It is only fair to say that we were very glad at that time to get those premises, which were offered by the Royal Dublin Society. I did not know, and I think nobody else knew, what exact amount of accommodation would be necessary for the Dáil when the Dáil got into working order. We took the best we could get at the moment. During the discussions on the Constitution we had continued meetings from September till the end of October, and we worked under difficulties. But I would like to remind the Deputies that our work at that time, although lengthy, was of a simple nature, and we were doing, practically speaking, only one thing. We did not require a variety of offices or departments. We did not at that time have a staff at all as big as we now have, and it is even now inadequate to our needs. The moment the Dáil which opened on the 6th of December got into working order, it became apparent to me, and to my responsible officers, that more space was necessary, and in the beginning of the present year I began to press upon the President the necessity of our having more space. There was only one way of getting more

[An Ceann Comhairle.]

space in this building, and that was by displacing the Royal Dublin Society, either in part or in whole. As far back as February, having made up my mind that we needed the whole building, I wrote to the President, telling him that, and pointing out, what is really no secret and what everybody will appreciate, that the question of occupying the whole building here and putting the Royal Dublin Society out was one which meant taking an important decision, and that should be taken, of course, by the Executive Council. An attempt was made to come to a compromise and take over certain rooms in the building. The Royal Dublin Society, who have always treated us with the greatest courtesy and given us the greatest assistance, considered that too much was being asked from them, and they asked that the President should receive a deputation from the Council of the Royal Dublin Society, in order that they might discuss with him the question of the accommodation provided for the Dáil in Leinster House. The President asked me if I would be present when he was receiving the deputation, in order that I might be able to supply any information which would be required. I was present. The deputation from the Royal Dublin Society put before the President a very strong case from their own point of view, and, I think, in fact, a very strong case for their not being turned out of this building altogether. They agreed to consult with me and to give me certain rooms, even though they thought that their own business would be very seriously impaired by the loss of these rooms. Arrangements have now been practically completed for our getting these rooms. But that interview convinced me that the getting of extra accommodation in this building was a matter of great difficulty, and the President asked me whether I would put up to him my views on the whole question of accommodation. I did so, and my letter to the President was circulated to Deputies. Now, it is well that my own position in this matter should be made quite clear. My letter was a statement of the facts as they appeared to me—the facts as they were represented to me by the Clerk, who has charge of the arrangements for the Dáil. I went into the matter very carefully myself, and I concluded that the facts

were exactly as I stated them in my letter. I suggested to the President in the letter that in order to fulfil the pledge which he had himself given that he should appoint a Joint Committee of the Dáil and Seanad to go into the question of accommodation. I would like to remind the Dáil that my letter did not suggest any restrictions or any limit upon the matter which might be discussed by that Committee when appointed. If Deputy Gorey reads that letter of mine again he will notice that that is true. When the Committee was being appointed, questions were asked in the Dáil as to what were the exact terms of reference of the Committee, and whether they would allow the Committee to discuss and examine any project for the temporary accommodation of the Oireachtas. It was pointed out that the terms of reference were sufficiently wide to cover any discussion. In fact, when I was myself appointed Chairman of that Committee I ruled at the very beginning that the Committee could discuss not only the question of the accommodation which might be found at Kilmainham, but the question of accommodation anywhere. So that any statement that the Committee's terms of reference concerned Kilmainham only, or any statement that the Committee in its deliberations considered Kilmainham only, is not accurate. Such a statement should I think, not be made.

With regard to Kilmainham, as I made clear in my letter, and as I made clear to the Committee, and as Deputies will easily understand, my concern is not with a site. It is with a building, with suitable accommodation. And when the Executive Council had before them the question of whether the Royal Hospital could be turned into a suitable building for the Oireachtas, they asked me whether I would consult with the Board of Works so as to see whether the building could be made suitable. As I stated in my letter, I did so, and I came to the conclusion, and others who saw the plans and others who went to Kilmainham also came to the conclusion, that the building could be adapted so as to give us good accommodation. In fact, it will be in the recollection of the members of the Committee that objection was taken to Kilmainham on the grounds that the accommodation which could be provided there would be so good that it would be-

come the permanent home of the Oireachtas. I made no statement, nor do I make any statement now, nor have I come to an opinion whether the site at Kilmainham happens to be a good or a bad one. I was merely asked to express an opinion about the building, and I did so. The Clerk and myself spent a considerable time in consultations on the matter. It is clear the Joint Committee on accommodation which was appointed was not confined to a discussion on the Kilmainham project. Deputy Gorey, if I have not misunderstood him, has told us something of the decisions of the Committee and of the opinions formed by the Committee. The decisions of this Joint Committee are in this report, and the Joint Committee came to no other decisions.

Mr. GOREY: Nobody, I think, said they did.

AN CEANN COMHAIRLE: The Joint Committee came to no other decisions except those set out in this report and my recollection may be at fault, but I understood the statement to be made that when the Joint Committee went to the Royal Hospital and held a meeting in the Boardroom there, they formed the opinion that the place was unsuitable.

Mr. GOREY: Not the Committee; certain members of it.

AN CEANN COMHAIRLE: Certain members of the Committee, but not the Committee certainly, because the Committee did not either approve or reject the project there. As regards the decisions of the Committee, the Committee quite properly decided there were two questions—the question of permanent and temporary housing. On the question of permanent housing, they decided that before any decision was come to there should be an investigation by a Commission, and I do not think their Resolution is as vague as it has been represented. They suggest a Commission including experts, and the inclusion of those words “including experts” means that they wish to convey that it would not necessarily be a Commission consisting, for example, only of the members of the both Houses. They left it open, and quite properly, to the Dáil and Seanad to decide whether they would appoint a Commission of members of both Houses, or a Commission of the members of both

Houses with the addition of outside experts, or any other kind of Commission which might be decided upon or discussed on the recommendation, for example, of the President. With regard to the temporary accommodation, the Committee particularly desired to go into the question of Leinster House, and we were not able to have all the information necessary, for people who had not considered the matter before, ready for the Committee in time to enable them to come to a decision and report to-day. Therefore we were obliged, under our terms of reference, to report as we have reported: “That the Committee is unable to make any recommendation regarding temporary accommodation.” Three meetings were held, and one meeting fell through for want of a quorum of members of the Dáil. Only two members of the Dáil were present. I was engaged at other work in my own office, and I would have made an appearance at the meeting, so as to make the quorum of members of the Dáil, had four other Deputies made their appearance; as four other Deputies did not appear there was no use in my going to the meeting. I would like to have it made clear what the terms of reference of the Committee were, how the Committee went about its discussion, what it was ruled the Committee could discuss, and in the conditions which obtained, in view of the necessity of making a report to-day, that the Committee could not make a report of any other kind than the one submitted. If the Committee were given a further lease of life, I am not so sure whether, in view of the imminence of an election, there would be time to consider matters, time to have a decision taken, and time to report. That is a matter altogether for the Dáil. I want to repeat that my intervention in the matter and my action was prompted solely by a desire to find accommodation somewhere which would be sufficient for our needs, and I had no desire to favour any particular site or to take any action which would prejudice the rights of Deputies and Senators to decide where they want to go for either temporary or permanent premises. Our present accommodation is not adequate.

The PRESIDENT: I suggest that the Committee should be afforded another opportunity of considering this matter. I would be prepared to give them until after the election. I do not suppose they

[The President.]

would report before the election, and they will not be limited as regards time. I make that suggestion in view of the pressure that is being brought upon us by the Royal Dublin Society, who have been very generous and most accommodating for a long period, and who find that their business is seriously being interfered with by the occupation of the place by the Oireachtas or by anybody but themselves. They really require the premises. I would be particularly glad if the Committee would again sit and consider the matter. Even if there is an election and any accidents should happen, the report could be submitted after the election.

AN CEANN COMHAIRLE: Can the Committee sit after the Dissolution?

The PRESIDENT: If the Dáil empowers them to do so, I do not know any authority in the country that will exercise any influence to the contrary.

Mr. JOHNSON: I would like to know what was in the President's mind when he asked for this Committee to be set up—at least when he moved that it should be set up. We were appointed a fortnight ago—at least on the 10th July—to report on the 27th July. We have reported that that time was not sufficient to take the alternatives into account. Now the President suggests that the time may be extended and that the report can be handed in after the election. Who may report after the election? Men who are at present members of the Dáil, but who, between the Dissolution and the time they will report, may not be members of the Dáil? That is playing with the question. It is either intended seriously or it is not. The position, as it appears to some, has come down to this, that there are two possible places that can be occupied within a few months. No others have been mentioned that I can think of as likely to be at all suitable. One of these places remains to be examined carefully, and all the facts in respect to it put before the Committee. These papers and that information is in preparation, I understand, and a week, ten days, or a fortnight might be the time during which this Committee would be allowed to further consider the question, and if it can report within that time let it do so; if it cannot, then let it dissolve. But when the Committee has made its

report, then the Executive Council can make its own decision.

The PRESIDENT: I may say that Deputy Johnson puzzles me a little. He asked for a reason, and I explained everything. The original intention with regard to the appointment of this Committee was that it would be able to report, and that we could start doing some work in the interval between the Dissolution and the election, that we hoped to save a month or five weeks, or whatever the time may be. That is not possible, and we have had, in the absence of that course, to see what we could recommend so that the new Dáil will have something to go upon. I am not at all satisfied that there is anything which would enable the new Dáil to come to a decision by the adoption of this Resolution. It is in the hope of getting something to meet the present needs of the situation rather than what is going to concern the people of five or ten or fifteen years hence, that I am concerned with. The next few years will be the busiest years. Surely we realise the necessity for having suitable accommodation during that period, and that is what I am most concerned with at the moment.

AN CEANN COMHAIRLE: Then the only method open is to extend the time during which the Committee can report, and restrict the Committee to the question of immediate temporary accommodation?

The PRESIDENT: I think so.

Mr. GOREY: With regard to this question of further meetings of the Committee, there would be no use in this Committee meeting under the conditions that were in the previous terms of appointment. The only way in which this Committee could be effective would be to have those attending to be sufficient to form a quorum, and then it would not be in the power of any member to block the matter or to render the meetings abortive. If you are genuine about it, let those who attend form a quorum, and that would ensure you a better attendance. It would be at least a test of genuineness.

Mr. HUGHES: I join with the last speaker, because I do not think the remarks he has made should have been made about any member of the Com-

mittee. The reason I do join with him is because I missed attending on at least two occasions, when I could not be present on account of private business. I do not think that any charge should be made against any member of that Committee—

Mr. GOREY: It is not a charge.

Mr. HUGHES: That they would stop away deliberately in order to block business. I do not think that that has been done, nor was it intended to be done by any member of the Committee, and I think it is a charge that should not be made, that is, if we are honourable or honest men, doing a duty that has been passed upon us.

Mr. GOREY: I made no charge at all, but the fact is that on two occasions members of the Committee did not attend, and in order to ensure its meetings I suggest that those attending should form a quorum.

Mr. DAVIN: I certainly thought, as Deputy Hughes did, that the inference could be drawn from Deputy Gorey's remarks that there was a deliberate intention on the part of some members to shirk their duty in this respect. I was prevented from attending the last meeting by other, and, to my mind at all events, more important work that delayed me for thirty-five minutes beyond the time the meeting was called for. It was not deliberate so far as I am concerned, and I am quite certain that no member with a standard of honour would, in the first instance, take up this particular work and then deliberately stay away from it, and I think the Deputy's statement is uncalled for.

Mr. BLYTHE: It does seem to me that there was a possibility of that Committee coming to a decision in a week or a fortnight, because I believe that if the Committee excludes the question of permanent housing and deals only with the temporary housing that there are really only two practicable proposals, and it would come down to deciding between them. I do think that there would, consequently, be a possibility of getting a report.

Mr. GOREY: There is just one other matter I wish to mention. I understand that several members of the Committee

say that they did not get notice of the meeting in time to attend. I believe that is true, and I have been assured of it by certain Deputies. It would be better to have a certain hour fixed for every day, so that every member of the Committee would know the time and if he were absent it would be his own fault. I suggest it should be done in the same way as you fix the meetings of the Dáil.

AN CEANN COMHAIRLE: We will have to get a motion on this question. It seems to be the desire of Deputies generally that the Committee should continue its sittings for at least a week, and that it should be confined to the question of temporary accommodation. Perhaps the Minister for Local Government would put down a motion to that effect. Then I am not sure whether we would not have to send a message to the Seanad to request them to appoint their members on the same basis.

Mr. BLYTHE: I propose: "That the Committee be requested to continue its deliberations with a view to making a recommendation by Friday, August 3rd, as to temporary accommodation for the Oireachtas; and that a message be sent to the Seanad acquainting them accordingly."

AN CEANN COMHAIRLE: Is the motion by the President withdrawn?

The PRESIDENT: Yes.

AN CEANN COMHAIRLE: Will any action be taken with regard to the question of a quorum? The position at present is that I had some discussion with the Cathaoirleach of the Seanad regarding this particular motion. We both agreed that the motion as passed means, unless five Deputies or five Senators are present, there could be no meeting.

Mr. BLYTHE: I think it would be quite sufficient if, at the meeting adopting the report, there was a quorum on the old lines, but I do not see any reason why the Committee should not consist of less than five members.

AN CEANN COMHAIRLE: The motion is: "That the Committee be requested to continue its deliberations with a view to making a recommendation by Friday, August 3rd, as to

[An Ceann Comhairle.] temporary accommodation for the Oireachtas, a quorum to be seven members of the Joint Committee, and that a message be sent to the Seanad accordingly."

Motion put, and agreed to.

REPORT OF THE SPECIAL COMMITTEE ON THE PUBLIC CHARITABLE HOSPITALS (TEMPORARY PROVISIONS) BILL, 1923.

Mr. JOHNSON: On a point of order, before we proceed may I ask what is the procedure in regard to a Bill coming forward from a Special Committee in this way. Is the procedure to receive and consider as a report, and is it then to go to the Dáil? Has notice been given for the Committee Stage, or what is the position?

AN CEANN COMHAIRLE: I think the procedure would be that the report should be received, and that the Bill, as amended in the Special Committee, should be considered after notice. In that way we could consider the Bill as amended in the Special Committee, either as we consider Bills which are reported from a Committee of the whole Dáil, by taking a motion that the Bill be received for final consideration, and taking amendments to the Bill in the Dáil, or, if the Dáil so ordered, the Bill as amended in the Special Committee could be referred for consideration to a Committee of the whole Dáil. Either of those motions could be made. For example, that the report be received, and the Bill, as amended by the Special Committee, be received for final consideration on next Wednesday, which is the first day for private business, or that the report be received, and the Bill, as amended in the Special Committee, be considered in Committee of the whole Dáil on Wednesday next. I think these are the two alternatives.

PADRAIC O'MAILLE: Bhi mé i m' uachtarán ar an g-Choiste Airithe seo agus mar gheall ar sin ba mhaith liom an cúntas seo a chur os cónhair na Dála. Rinne na Teachtaí a bhí ar an Choiste a n-dícheall chun an Bhille d'fheabhsú.

I wish to submit this report to the Dáil, as Chairman of the Committee. Members of the Committee having different views on this Bill made an effort to try to improve the Bill and have it in such a way that if the Bill becomes

law no fraud can take place under it. A large amount of evidence was taken, and this evidence, if the Dáil so decides, can be printed and circulated amongst the Deputies. There are also a number of accounts and documents that came before the Committee, and those also can be made available if the Dáil so desires. No radical change has been made in the Bill, but considerable amendment has taken place, and the Committee has made the best efforts it could to bring in a measure that would meet with large support in the Dáil. It is necessary for me to say nothing more on the matter, because all the documents and reports can be obtained by the Deputies, but I would move this resolution: "That the Report of the Committee be received and adopted, and that the Fourth Stage of the Bill be taken on Wednesday next, August 1st."

Dr. WHITE: I second.

AN CEANN COMHAIRLE: "That the Report be received and adopted."

Mr. JOHNSON: What does that mean?

AN CEANN COMHAIRLE: That the Report of the Committee be received, because, after all, what the Committee reports in substance is the Bill as amended. I am afraid there would be serious trouble over the word "adopted." I suggest that the resolution be altered to read:—"That the Report of the Committee be received, and that the Bill as amended be considered on Report on Wednesday next, 1st August."

PADRAIC O MAILLE: I agree, and I propose the motion as altered.

AN CEANN COMHAIRLE: The motion does not mention the adoption of the Report, and, therefore, the only question is, whether the Bill should be considered next Wednesday on Report.

Mr. JOHNSON: I hope I will not be charged with being a spoil sport, but this of course does not deal with sport. Sport is only a peg on which to hang something else, but I want to ask whether it is the intention of the Dáil to agree that this Bill receive consideration when Bills are being thrown overboard by the score almost, and other Bills of infinitely more importance, if not less dangerous, are being rushed through the Dáil without consideration. I want to

say this, if this Bill is going to be considered on Wednesday next by the Dáil then other Bills will have to be considered thoroughly.

If that is the intention, and if the Dáil is going to decide that this Bill is going to be considered on Wednesday, then other Bills will have to be thoroughly considered.

Mr. O'HIGGINS: Personally, I consider that Deputy Johnson's attitude on this matter is most reasonable. There is extreme pressure on the time of the Dáil. The President has communicated to the Dáil the considerations which render an early election a matter of urgency. These considerations are not party but national considerations, and the Dáil has been asked to pass really important measures with the irreducible minimum of consideration, and I do not think that the Dáil should be asked to devote any portion of such time as is at its disposal between this moment and the elections for the consideration of this Bill. I do not know whether this Committee devoted any portion of its time or labour to the consideration of any alternative method of raising money for the hospitals. Probably that would not fall within its terms of reference, but I think this whole matter might be left over until a Parliament, elected by the adult population of Ireland, is in a position to consider it. I know that the hospitals are very hard pressed, and from another angle this matter of sweepstakes has been represented to me. People have come and put the point of view as to how our churches are to be built in the future—how are we going to get £70,000 or £80,000 for building churches if we are barred from this method. I grant both one and the other of these questions are important, but in the proper perspective, having regard to the existing conditions and the pressure put upon the Dáil, and the consideration that has been asked from the Dáil and individual Deputies, I do not consider that they ought to be asked to consider this Bill this side of the election.

Dr. WHITE: The time occupied in discussing this Bill is, I take it, the time for Private Bills, and the idea of submitting this Bill to the Committee was to get that Committee to produce as water-tight a Bill as was possible in the circumstances. The other primary factor, I take it, why that Bill was submitted

to the Committee was to do away with unnecessary oratorical effusions in the Dáil.

I think this Bill was first introduced about February, and I think the supporters of the Bill have possessed their souls in patience, and have done everything to meet everyone who is more or less opposed to the Bill. We have looked at it from every reasonable point of view, and we tried to facilitate all parties. The Bill is now before the Dáil, and I think it is time that a climax was reached. There is no doubt that the Bill, honestly considered, is a most important one, and it cannot brook further delay. The proposition proposed by the Ceanm Comhairle is, I think, a reasonable one. The documents are now circulated amongst members, and any further evidence that any member may require can be got by applying to the Clerk. I said, when introducing this Bill, that I fully appreciated, and so did my colleagues who were in harmony with me on this matter, the grave national condition of the country then, and we appreciate that now also, and that other important Bills have been considered, and, perhaps, not examined as critically as they might have been. I think that the important points of this Bill are fully appreciated and understood by every member of the Dáil, and it is with the idea of, if you like, facilitating the national and parliamentary work of this Dáil that we have suggested that this Bill, as amended, should be circulated amongst the members, and that by Wednesday next, when they would have their minds made up and have had time to consider and digest the important parts of the Bill, they would have an opportunity of voting for or against it.

Mr. SEARS: I would like to support the motion in favour of this Bill. I am glad to see that the opposition offered by one side of the Dáil has been altered considerably. We were treated on the last day to a great many lectures from the highest moral standpoint and to tirades by people who closed their eyes to what was going on in the country about them. There has been some change, at all events, in some parts of the Dáil in the attitude towards the Bill, but there has been no change on the part of Deputy Johnson. He has given this Bill most strenuous opposition of a fair and unfair kind from start to finish.

[Mr. Sears.]

This Dáil appointed a committee, and asked them to invite some of the most eminent doctors in Dublin to come before it and give evidence. The committee was empowered to invite those who conducted sweeps to come before it and tell how these sweeps were carried on, what was the cost of management and also what were the profits. They came before the committee, brought their books and papers, and at great inconvenience gave us all that evidence. The Committee did not exhaust one minute of the time of the Dáil in doing all that work, yet when it has all been done Deputy Johnson stands up and suggests that we should sweep it all aside. I think it is most unfair. It is entirely in the spirit of the amendment which he put down in regard to the title of the Bill. With regard to future Bills we do not propose to take up one hour of the Government's time, and that part of the opposition is not honest, for we only propose to take up the time of private members. We are not encroaching upon the Government's time, so there is no great point in that either. One witness stated that the hospital with which he was connected was in debt to the extent of £20,000, and other witnesses told similar stories with regard to their hospitals. Those people are carrying on the hospitals and doing their charitable work, taking in patients, some of them gratis and some at a small charge, a few of them taking in even members of this Dáil at low rates, and the doctors attending there, are men who give their valuable time for nothing in these hospitals.

Imagine what must be the atmosphere in a hospital having £20,000 of a debt hanging over it. Is all urgent work to be set aside and are we to get on with nothing until the elections are over? I do not wish to support gambling but I do not see why that stream should not be turned aside to support the hospitals, why it should not be allowed to bring grist to the mills of the hospitals. We were lectured here the last day on lotteries and sweeps. It is a mistake. Why should we not get money out of those things? It reminds me of a story in the Gospel. In Jerusalem there was a great difficulty in establishing the Sabbath, but then they established it so well that a man would

not pull his sick cow out of a ditch on Sunday. They were rebuked. Now, you will not help the hospitals, and every day in the week you play bridge and back horses. Deputy Johnson is afraid that we will rob the poor English people with these sweeps. If he takes up the "New Leader" or any labour paper, he will find pages devoted to advertisements about the Golden Ballot, the Silver Ballot, and other kinds of ballots. There are ballots for Unionist clubs and Labour clubs. I saw where the first prize for one club is £32,000. I contend that the opposition is either mistaken or misinformed, but it is a cruel opposition. We propose that those sweeps should go on the lines that Fr. O'Nolan took in the Toome Sweep when he made £50,000, and no one was a penny the worse. Those hospitals are badly in need of money, and the money going to the book-makers may not go to those hospitals. One of our experts informed us that £100,000 could be got from those four great races. I do not know their names, but our chief Whip could give you their names. With regard to fraud, Deputy Gorey said he was over in England and was pestered with people selling tickets. Those may not have been Irish tickets at all. He says all the money was not sent back. Fr. O'Nolan managed the Toome Sweep and said out of three million tickets sent out that there was only an allegation of fraud in 30 cases. He said that people who bought those tickets took good care that they got some proof that their money reached the right quarter. In this Bill there are provisions made to prevent fraud. Every loophole the ingenuity of the opponents of the sweep could discover was closed up. First each Deputy must be furnished with an audited statement of the condition of the hospitals. Then the hospitals must appoint a Committee of the Chief Medical Officers in Ireland, and those men will be responsible to the Minister for Home Affairs as to how the sweep is to be carried on. Regulations will be framed governing the conduct of a sweep. If a local Committee is appointed to carry on a sweep that local Committee must give all information to the Central Committee of Doctors. A full audit of all the accounts will be submitted to the Minister for Home Affairs. He has power of life and death over a sweep, and although he is not in favour

of it, we are certain that if this Dáil authorises it he will give it fair play, and we are prepared to abide by any of his decisions in all points regarding the sweep. If there were any other means of getting money for the hospitals I would not propose this method. The only point against a sweep that weighed with me is whether it might not dry up subscriptions for charities. I am confident it will not. One little sweep more or less will not do us any harm. We are not going to take up the time of the Dáil further, and I think it should accept this motion.

Professor MAGENNIS: To anyone who read the original Bill and has compared this product with it it will naturally occur to him to praise it. They have done very excellent work in transmuting a most objectionable thing into a far less objectionable thing. I am willing to pay that tribute notwithstanding that the Committee has not seen fit to pay any tribute to the help I gave. I was a member of that Select Committee and I helped it all I could by staying away. Now Deputy SEARS, I think, was rather unhappy in his opening statement that those of us who in the Dáil opposed the original draft of the Sweep Stakes Authorisation Bill lectured the Deputies from a lofty standpoint of morality, and I took it down "without regard to what was going on in the country." It would seem as if the movement for the moral regeneration of the country outside was so active and so widespread in its activities that our homilies here were in some measure in competition with the practical work of moralising the people so that we were interfering with the great efforts of the nation builders. The specious argument that Deputy SEARS advanced as his last word to us on the subject just now is the temptation by which the new beginner is led along the path until he ends as a confirmed drunkard, "another little drink will not do us any harm." He said "another little sweepstake would not do us any harm." He also argued as if there was any dispute whatsoever as to the fact that the hospitals are in grave need of assistance. We have never questioned that. We are quite as well disposed towards the great charities the hospitals constitute as the promoters of this Bill. We are not convinced as they are that this

is the only way of getting the money that is requisite. No doubt Deputy SEARS and his colleagues would denounce the high morality of John Stuart Mill who declared on one occasion that he would rather go down to hell than tell one deliberate lie for the advancement of any cause, however sacred, to which he was devoted.

Deputy SEARS thinks that this is an unattainable ideal to put forward. After all what does one Commandment broken amount to? Look how many people are breaking, say, nine or ten Commandments; why leave one untouched therefore? These are very specious arguments. I recommend them for Sunday study to Sunday school children as very profitable. Now there are other ways for raising funds for the hospitals. It is a big question altogether to tell us that we must legalise schemes by which young and old, the young more particularly, should be invited to study the betting pages of the ordinary newspaper and become subscribers to the sporting papers. There are other ways.

Mr. SEARS: Suggest them.

Professor MAGENNIS: I have already made one suggestion; the great source on the Continent for getting money for municipal buildings and for a variety of things that it is not desirable to charge altogether upon the rates. It is necessary to have beautiful and extensive buildings for the city. These buildings are raised by Premium Bonds. In Belgium and France you may hear any afternoon the street-boys running along selling the "Liste Officielle." People quietly come out of their shops and out of the restaurants and cafes to buy the "Official List" to see who has won the 40,000 francs. That promotes thrift—

Mr. JOHNSON: On a point of order, may I draw attention to the fact that there is no House. We are not in Committee, and I understand that the Dáil may be counted out.

ACTING-CHAIRMAN (Mr. Fitz-Gibbon): The Dáil may be counted out, except in Committee, but I believe a ruling was given that when a count was called the division bell should be rung, so that people who were in the House though

[Mr. FitzGibbon.]
not in the Chamber should be given an
opportunity of attending to be counted.

A count of the House was taken.

ACTING-CHAIRMAN: Being satis-
fied on a count of the Dáil that there is

not a quorum present, I declare the Dáil
adjourned until Monday next at 8
o'clock.

The Dáil adjourned at 2.40 p.m. until
Monday, 30th July.

DAIL EIREANN.**DE LUAIN, 30ADH IÚL, 1923.***(Monday, 30th July, 1923.)*

Cromadh ar obair an lae ar a 3 p.m.
Bhí an Ceann Comhairle, Mícheál Ó
hAodha, sa Chathaoir.

COMMITTEE ON FINANCE.**MONEY RESOLUTION.**

The PRESIDENT: I beg to move:
“That it is expedient to authorise the
payment out of moneys provided by the
Oireachtas of any expenses authorised to
be incurred under any Act of the present
Session to provide for the defence of
Saorstát Éireann, and other matters in-
cidental thereto.”

Question put and agreed to.

THE DAIL RESUMES.

Resolution reported.

The PRESIDENT: I move: “That the
Dáil agrees with the Committee in the
said Resolution.”

Question put and agreed to.

AN CEANN COMHAIRLE: The
Minister for Home Affairs is in the
Seanad in connection with the Public
Safety Bill, and he asks that the Bills
with which he is concerned on the Paper
here to-day may be taken out of their
order later on.

**APPROPRIATION BILL, 1923—
SECOND STAGE.**

The PRESIDENT: I beg to move.
“That this Bill be now read a second
time.”

**MINISTER for EXTERNAL AF-
FAIRS (Mr. Desmond Fitzgerald):** I beg
to second the motion.

Mr. JOHNSON: I wish to ask a
question as a matter of order—to know
exactly where we stand. We have just
passed a resolution authorising expendi-
ture out of public moneys by the
Oireachtas for the Defence of the

Saorstát under an Act still to be passed.
We have been discussing Estimates for
the same purpose for some time. This
Appropriation Bill deals with expendi-
ture of ten millions for the same purpose.
I ask now what is exactly the position?
Is this authorisation respecting expendi-
ture under the Defence Act additional
expenditure, or is it to cover the same
ground as the Appropriation Bill, or any
other resolution which we have already
passed? I would like to have some en-
lightenment.

The PRESIDENT: It is to cover the
same ground as the Appropriation Bill.
But if we were to proceed on the correct
chronological order the Defence Bill
ought to have preceded the Estimates
and the Appropriation Act.

Mr. JOHNSON: I suppose it really
means we have been voting money for
organisation that had no legal sanction,
and we are now legalising the situation
by voting the moneys again.

The PRESIDENT: We really were
voting money for purposes which had not
got statutory authority, and the neces-
sary steps precedent to, and contingent
upon that act could not be taken in
sufficient time to permit of the authority
being given by Oireachtas, and conse-
quently we are now regularising the
whole proceedings. It would be very
much more in order if we were in a
position to have this Act passed before
the consideration of the Estimates. It
was not possible to do that, and we are
now taking all the steps which ought to
have been taken in that time in order to
put the matter completely in order.

AN CEANN COMHAIRLE: And
any money provided under this resolu-
tion will have to appear in the Estimates
whether original or supplementary.

Mr. DAVIN: I am sorry the Minister
for Home Affairs is not here at the
moment, because I would like to draw
his attention to a matter that concerns
his Department, but, in his absence, I
will draw the attention of the President
to the matter. During the discussion on
the District Justices Bill, which was
passed some considerable time ago, I
tried to impress the Minister with the
necessity for appointing to the office of
District Court Registrars, and other
positions under that Act, men who would

[Mr. Davin.]

be in sympathy with the Government, and would not be likely to make, through their personality, the Courts unpopular in parts of the country. Now, I have had occasion to draw the attention of the Minister on two or three occasions to appointments which are decidedly unpopular, and so unpopular were they that these appointments were cancelled. I take it they were cancelled for very good reason, either national or administrative. I have received a memorial from the residents of Ferbane, and included in that memorial are the names of all the District Councillors in the area, and of every one ever associated with the national movement, including the officers of the Irish Republican Army. The memorial was passed over to the Minister, but he still adheres to the appointment of an ex-R.I.C. Sergeant as the most suitable and efficient man for this work. I suggest that in the interests of good order and the peace of the area, and particularly in the interests of the functioning Court itself that that particular appointment should be cancelled. The Minister takes the view that there are other people in the area besides those who stand for national ideals, and in deference to the wishes of that particular class he thinks it desirable to retain this R.I.C. Sergeant in the position which he has occupied for a very short period. I draw the attention of the Minister to the matter now, in the hope that the Executive Council will take into consideration the views of the people in the area in a matter of this kind, and that in view of the hostility which is quite apparent, that the services of this particular gentleman will be dispensed with. It is said that there is a certain amount of money to be saved by reason that this particular gentleman will not have to be pensioned. I think the pension to which he would be entitled for a period of four or five years as Petty Sessions Clerk would be very small, and taking all these things into consideration, and especially the feeling of the people who are hostile to this appointment, I hope the President will be able to give us an assurance that the appointment will be cancelled.

Mr. DARRELL FIGGIS: I desire to raise on this Bill a question respecting a matter about which I have already asked the President a couple of questions, and about which I have not had as complete

and as satisfactory replies as I could have wished. On Wednesday last, it will be remembered, I referred to the question of the purchase of certain trawlers, and the admission was made that 12 trawlers had been purchased. I asked to know what price had been given for them, and was informed that the price was £87,000. I was particularly interested in that figure, because I had already received some information in respect of this matter. The figure that I had been given for these trawlers consisted exactly of the same two numerals. The price I received was £78,000. It came to me as confirmation of the information that was given to me. I referred back again to my informant, who told me the price that he was prepared to adhere to, and that he was still standing to, was £78,000. I only refer to that now just to show that the matters I am now going into came before me in the shape of very reliable information. In any case, whether the figure be £78,000 or £87,000, it means that these trawlers cost somewhere in the region of six or seven thousand apiece. My informant tells me that these trawlers were last used in laying mines, and collecting mines in the late European war, and that when they had completed that work that they lay in Inverness. I am now speaking strictly to the information which has been repeated to me, and confirmed to me since these questions were put. I am told that these trawlers were offered in the public market for a price that was not higher than £250 each. In any case, I give that figure, because the matter does need inquiry. Whatever the figure be, it is perfectly clear that any person can check these figures, and that to pay six or seven thousand pounds for a trawler is an excessive figure, but how far it is excessive I am not prepared to say, except that I give this information on the authority of the person who informed me what the original price was that was paid for the purchase of these boats. The same person also informed me that proof was available that these trawlers could have been got for a price under £250. I would like to ask who made the purchase on behalf of the Government. I would like to know, and I think the Dáil should be informed, who acted on behalf of the Government in making these purchases. I asked further if certain electrical equipment, the engineering slang for which is certain electrical gadgets, had been purchased

for these boats, and I desire to know how much was paid for them. I was told that only one had been equipped, and that no orders had been placed. My informant tells me that actually one trawler was fitted out with electrical machinery at a cost of £4,000, and that orders were actually placed for going on with the rest of the trawlers at that excessive and exorbitant figure, but that on last Tuesday week a telegram was sent suspending all further work. Now, these are matters that are very important, and one ought to know, and the Dáil ought to know, in the expenditure of moneys in this way, who acted on behalf of the Government in making these purchases; we ought to know what firms tendered, and how many tenders were submitted for furnishing these trawlers. If one of these trawlers had to be furnished with machinery, I would like to know if I am correct in saying that the price actually paid for furnishing it was £4,000. I would like to know how many tenders were sent in for that work, to whom the tenders were sent, and by whom these tenders were accepted. I have given all the information that has been put before me, and I know that my informant is in a position to speak correctly as to these matters. I put the matter now to the President, and ask him for this further information particularly as to who acted on behalf of the Government in making these purchases.

THE PRESIDENT: With regard to the matters raised by Deputy Davin, I will undertake to bring them under the notice of the Minister for Home Affairs. I do not think it would be fair to ask me to give an undertaking in connection with matters connected with another Minister's Department without consulting that Minister. It would certainly be unfair to another Minister that I should adopt that attitude, but I will undertake to bring the matter to the Minister's notice at the first opportunity. With regard to the matters raised by Deputy Figgis, the Dáil will recollect that some day last week a question was put regarding these trawlers, and the question was to have been further raised on the adjournment, but was withdrawn because I think some other question arose on the adjournment that day. Then we were informed that there was to be a question asked on Friday or to-day, and that question was not asked on Friday or to-day, but it is

now raised, and raised in a manner which I certainly do not approve of.

MR. DARRELL FIGGIS: I did ask that supplementary question.

THE PRESIDENT: The question, and my recollection on matters of this kind is fairly reliable, was not asked, but we were promised to have a question put down for Friday or to-day, and that question has not appeared yet.

AN CEANN COMHAIRLE: There were two questions. There was a question on Wednesday and a supplementary question was asked. The supplementary question was put down on the paper on Friday.

MR. DARRELL FIGGIS: I have here the official reply made by the President to the supplementary question.

THE PRESIDENT: We have nothing to do with the Company that Deputy Figgis is concerned in, if he is concerned in it, or the membership of any other company. This is not the place to thrash this out, and there certainly appears to me to be a remarkable similarity with the old Irish saying that you, Sir, will appreciate, "Dubhairt bean liom go ndubhairt bean léi." If the Deputy wants information of any sort, or can give any assistance to the Government in the discharge of its business, he ought to give it with a view to assisting the whole administration, and not with a view to getting a petty advertisement out of it. I hope that the Dáil will never descend to that sort of system for securing popular support outside. We are not looking for advertisement in that matter. We are just as anxious to do the business of the country in a proper manner as the Deputy is. I have not got all the files of my Department in the Ministry of Finance, or of any other Department, in my bag every time I come in here, and if Deputies require information I put it to them that the information asked for ought to be reasonable information, information that I am in a position to give at a moment's notice, or of which I would have had some previous notice. It would, perhaps, require the intellect of a Deputy like Deputy Figgis to be able to carry around all the information that one gets in the course of a day's, a week's, a month's or nine months' business. I myself have some association with this

[The President.]

trawler business, an association to this extent, that, as I explained last week, the ultimate treatment of these trawlers is a matter for consideration and has not yet been finally decided between the Minister for Defence and myself. At no time have I any recollection of having sanctioned, in my capacity as Minister for Finance, the purchase of £4,000 of electrical machinery, or electrical gadgets, or whatever other sort of melodeon the Deputy was speaking about. It has not come before me.

Mr. MILROY: I am sorry that I had not this particular communication on the matter before the President spoke, because I wanted to emphasise or to support Deputy Davin in the points he made. I think it is the same case as that to which he alluded, the appointment of a Court Clerk at Ferbane and Banagher. The information that came to me, or to my knowledge, was of a very definite nature, and I furnished it to the Ministry of Home Affairs. I have received a reply, and judging from the nature of the reply, the appointment has been confirmed, and I am informed in this reply from the Ministry of Home Affairs that "After a very careful enquiry into the matter, there is a very definite section of local opinion in favour of this gentleman's appointment." "A very definite section of local opinion," is open to various interpretations. A very small section might well be a very definite section. One individual might be a very definite section. "I would also add that a memorial from a great number of people of good standing in Ferbane has been received by the Minister asking for retention of this gentleman in the office." and it adds further, "In these circumstances and having regard to the economy effected by not pensioning, and his undoubted efficiency as a clerk, the Ministry is unable to agree that it should dispense with his services." Although that is very definite, I also think that it is regrettable that the reply should be in such definite terms. My knowledge of the matter is confined to information which came to me, but the information was such that I, for one, felt that I could not endorse this appointment. I hope that this communication does not indicate that the matter cannot be reconsidered, as I have good reason to believe

that the appointment is a most undesirable one, and certainly should be reconsidered.

Question put: "That the Bill be now read a second time."

Agreed.

Ordered: That the Third Stage be taken to-day.

[DAIL IN COMMITTEE.]

[SECTION 1.]

Mr. JOHNSON: I think this is the time to raise a question on a matter which is, perhaps, rather a detail, but I do not think that there will be any opportunity of raising it, inasmuch as I had been rather expecting an opportunity for the last week or two to raise it, but it did not arise. It is in connection with the boundary between Donegal and Feramanagh, and the position of one of those little corners which is causing so much trouble. The County Council of Donegal, or the local Council, I am not sure which, is responsible for a considerable expenditure on the repair of roads which are in constant use by motor conveyances belonging either to the British Army or the Specials. I understand that between two points between Belleek and Pettigo it is necessary to traverse an area which is in Co. Donegal, and that there is very considerable traffic in this area in the neighbourhood of Castle Caldwell, in the Belleek District, and I think I am right in saying that that garrison is actually in the Free State area.

I am not quite certain of that, but the point I am raising is that there is considerable damage to roads there by virtue of the constant coming and going of those motors, and always the possibility of trouble arising unless men are very discreet. What I desire to ask is, whether there has been any arrangement made regarding the upkeep of that road, quite apart from the Boundaries question, which is very ticklish, I have no doubt. But there is a certain liability, and if the Northern authorities must be facilitated in their traversing of the particular piece of road in question, they should at least agree to a payment for the use of that road, and the damage to it. I am told that the fort which is occupied by the British military of the specials is on the Donegal side, and in the Donegal area. I think the Dáil is entitled to know whether any special arrangement has been come to in regard

to that district, and if so what arrangement.

The PRESIDENT: As far as I know there is no such arrangement in connection with that area. This is the first time I have heard any case put forward in connection with the use of motor lorries on Donegal roads. There was some consideration given to facilities being afforded the troops, or Specials from the Six County of certain areas of the Twenty-six Counties, and corresponding facilities were also the subject of consideration, but, as far as I know, the matter is not yet completed, and I take it that the use of these places by people from the Six County area would be in the nature of a set-off for any facilities we would get for the use of troops traversing portion of the Six County area, but other than that I do not know that any arrangement has been come to on this matter. I should say that it has not been brought to my notice that the Donegal County Council entered any objection, or put forward any case that they were entitled to any consideration for the use of roads there.

CATHAL O'SHANNON: I think it would be well if the President would look into the matter raised by Deputy Johnson, because there is a certain amount of feeling in the Tirconail part of the district over the matter, not that there would be any great objection, so far as I understand, to reciprocal arrangements, but as the Boundary question is looming up, there is a certain amount of, not exactly tension, but feeling on both sides. It would be well if this matter were looked into, because certain things are happening. I do not want to raise in any contentious spirit the Boundary question at all, but one or two things happened recently which might be provocative. I refer to the arrest of a Saorstát patrol which, I think, accidentally strayed two or three yards from its own area into the Six County area. When these things happen anybody who knows, and it is known for years, the position of affairs in the Six Counties, knows how easy it is to raise feeling to a pitch which would precipitate a conflict. The unfortunate thing up there is that when one little thing happens something else happens on the other side, and then something happens more serious again on the first side, and something more

serious still then happens on the second side, with the result that a conflict of serious dimensions is brought about. I think it would be well if the President would look into this particular matter, because there is grave danger that something which nobody, at all events I think in the Saorstát, would desire might result from this particular thing.

The PRESIDENT: I undertake to do that.

Section 1 put and agreed to.

[SECTION 2.]

Mr. JOHNSON: Can the Minister say whether he has made any progress in regard to the suggestions that were pressed some months ago about making arrangements with other banks in the Saorstát besides the Bank of Ireland. Explanations were given on the last Appropriation Bill as to the necessity for introducing the words "the Bank of Ireland" in this section. I understand there was, as a matter of fact, an indication given that the Minister for Finance was prepared to consider the question of approaching other banks, and not to allow the Bank of Ireland to have a permanent preference, and that it should become in fact a State Bank without State control of that bank, that in effect the Bank of Ireland might become the owner of the State, rather than the State the owner of the Bank of Ireland. I would like the Minister to tell us whether any progress has been made in respect of suggestions that other banks should be brought into relations somewhat analogous with those of the Bank of Ireland to the State. I do not want to go into details in this matter, but there was a more or less implied suggestion that consideration would be given to the preferential position of the Bank of Ireland, and I would like to know if any progress has been made in that direction, and what is the present position.

The PRESIDENT: That matter has been raised by, I think, the Standing Committee of the Irish Banks, but we have not been able to find a solution of it so far. The particular terminology used here has not evidenced any special concession to the Bank of Ireland, because the first line, "The Minister for Finance may borrow from any person," entitles any other person or corporation than the Bank of Ireland to lend to the Government, but there is a necessity for

[The President.]

the specific mention of the Bank of Ireland, owing to some clause in their Charter which prohibits them from lending to the Government unless permission is granted by the Parliament.

I should say that in connection with any accommodation that we have got with the banks they facilitated us as a body, each bank taking portion of the accommodation that has been given. It is possible that within a few months we will be able to say whether it will be practicable to make the arrangement that has been mentioned by Deputy Johnson.

Motion made and question put:
"That Section 2 stand part of the Bill."

Agreed.

Sections 3, 4 and 5 put and agreed to.

THE SCHEDULES.

The PRESIDENT: I move the Schedules.

Mr. JOHNSON: I want to ask the Minister for Finance, on No. 13 of Schedule B, Part 2, a question. A few days ago, I think, it was put to the Minister for Local Government whether the Ministry had made any arrangements regarding the giving of effect to the recommendations of the Reconstruction Commission in respect of the re-making and re-conditioning of roads. The Minister for Local Government replied that they had considered it. I think he went so far as to say the matter was under discussion by the Executive Council, but that the matter of finance was the obstacle. I want to ask the Minister for Finance whether any decision has been come to to put into effect the whole or any part of the recommendations of that Commission on Reconstruction in respect of the re-conditioning and re-making of roads. When the Commission was set up very positive assurances were given that the object of it was to find out the best means of setting about public work of a valuable kind, and special instructions were given to the Commission to consider such works as would be most likely to give general employment to a large number of men at an early date. Some members of the Commission agreed to go upon that Commission on the distinct understanding that effect would be given to recommendations, or at least that the Commission would not be

looked upon as a stop-gap, and its serious purpose was to bring forward recommendations with a view to the immediate setting about public works of a valuable kind in themselves, and, incidentally, which would absorb a large number of unemployed men. The report on the re-conditioning of roads was submitted, I think, about a month ago, and I was hopeful that by this time County Councils—the Roads Authorities—would have had sufficient assurances from the Minister as to warrant them in going ahead with the work, and to put into operation schemes that are already in being. I think the Commission is entitled to know—and I am sure that the public is entitled to know—whether the Ministry intends to give effect without any delay to the recommendations of that Commission or not. It is possible to set to work some thousands of men within a week or two on this very necessary undertaking. It is possible to set to work a good many thousands if the scheme were taken in hands and given effect to by the local authorities as well as the national authorities. Everybody recognises that it is essential work, whether there was an unemployment problem or not. It is essential work in many parts of the country to enable the Ministry of Finance to get on with its work, because in many parts the condition of the roads is such as to prevent or curtail the business facilities of those who are likely to be called upon to finance the State. But we have the fact that there are very large numbers of men waiting for employment, anxious for employment, suffering because of unemployment, and this is a public work that can be put into operation quickly. I pressed the Ministry to tell us whether they had come to any decisions on that report; whether they have decided to instruct the local authorities in conjunction with the Roads Department of the Local Government Department to go ahead, or what other decision they may have come to. It will not be satisfactory to be told that it is still in abeyance, and that it will have to wait for some time before any decision is come to. It is a matter of urgency; and when we are reminded of promises made and undertakings given I submit that this is one of the promises and of the undertakings that ought to be ratified and given effect to.

The PRESIDENT: This matter has been the subject of preliminary consideration only, and I am not in a position to say that it is at all likely that the report sent up by the Committee on Reconstruction is likely to be carried into effect. I am saying that purely as Minister for Finance, bearing in mind what available money there is for expenditure on this or any other purpose. When the promise was given to the Ministry of Industry and Commerce that Reconstruction money might be available, and would if we were in a position to get it, the circumstances were not the same as we know them now. We were not in a position to state at that time that the balance between receipts and expenditure on perfectly normal services was very slender, if there was a balance at all; and the duty devolves on the Minister for Finance, either now or in the future, to see that there is a balance, and that at any rate the balance will not be on the wrong side before he can undertake to appropriate any money for services other than those already undertaken. I should say that, from my own examination of this report, it was an unreasonable assumption for the Committee to make that it would be possible for the State to provide £2 for every £1 that was subscribed by the local authority. I am speaking from recollection. I think that was the suggestion that was made at the time. Those who have had long experience of local government will be able to say that there were three primary duties cast on local authorities: Provision of water, maintenance of roads, and, I think, the provision of light or the disposal of sewage. Essentially I think road maintenance is a matter for local authorities. If local authorities live beyond their means and devote moneys extravagantly for other purposes, it is unreasonable to expect that the Government must subsidise them to the enormous extent anticipated by them and by this Commission. We are subsidising Urban Councils practically to that extent in connection with building. But I have no hesitation in saying that it will not be possible in the future, after the undertakings we have given for whatever sum is in the estimates for the services of this year, either now or in the future, to devote any such por-

portion as that for the solution of any question of which the local authorities must bear their part.

I mentioned a few times that the temporary financial adjustments with the British Government have taken considerable time. One has just been completed in connection with the Local Taxation Account, and I have instructed the Ministry of Finance to take up the question of whatever sums are due out of the Road Board Fund. When we have discovered what that amount is, and made some inquiries as to the collection of the sixpenny rate for this year, I think we will be in a position to indicate how far the programme outlined by the Reconstruction Commission can be undertaken. But I do think that this particular service is one which has benefited very largely by the Motor Tax, and that with the sum raised by the local authorities in the ordinary way for road-making, and the sum we have under the Damage to Property Act instructed local authorities to strike—that that sum ought to be sufficient to deal with this particular service. I know that everything that Deputy Johnson said is quite true. The roads are in a deplorable condition, and a great deal of reconstruction and maintenance work ought to be done during the year, but I am not in a position to hold out any hope whatsoever, having regard to the present state of our finances, that any assistance can be given in respect of this particular service.

Mr. JOHNSON: The Minister's statement is not only unsatisfactory in what it really says, but in what is implied. If State funds cannot be made available for such a necessary work as the re-making of roads which have been damaged to a very great extent by military traffic, then no moneys can be raised for any purpose with a view to absorbing or employing unemployed men during the next year. If public moneys cannot be found for this purpose, then I ask any member of the Dáil to suggest any better purpose on which public moneys could be spent. The Minister's position is that no public moneys shall be spent for any public purpose of this kind or, impliedly, for any other purpose, because there could be no better purpose than the necessary re-making of public roads. What does the Minister say? That the upkeep of roads must be the responsibility of the local authorities. That

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might have been good doctrine before the coming of the motor car. But it is utterly wrong doctrine to-day. The trunk roads of the country are national roads whether called so or not. For the Minister to lay down that they must be maintained out of the local funds, and that the State cannot come to their assistance except by the supplementary grant out of the Motor Tax is, I think, a very disappointing statement.

It is very sad to hear the Minister speak as he has done, forgetting that a great part of the damage to the roads has resulted from the traffic of military wagons, which was not local traffic, but national traffic, if any traffic can be called national traffic. That is a responsibility which ought not to be thrown upon local authorities. It certainly should be met out of State funds. To be told now that no such funds, except such as may come out of the Road Tax, are to be available for the re-conditioning and re-making of public roads is most unsatisfactory. I can only take it as meaning that in the mind of the Ministry no public funds are to be raised for public works, because I cannot imagine any more necessary public work than this. I believe it is the idea of the Ministry itself that the work of re-making public roads is essential work. If State moneys cannot be devoted towards the re-conditioning and re-making of public roads—admittedly a necessary public work—then I ask what other work can public money be devoted to. It practically means that no public moneys are going to be available for setting people to work and getting this problem touched upon. I am very disappointed and astonished that the Ministry should come to that conclusion. It means that the work of the Commission—the work it has finished and the work it is pursuing—is all useless. It need not have been begun, and it is no use trying to finish it, because the Government says no funds will be available.

Mr. MILROY: I have listened to the statement of the Minister for Finance with quite as much regret as Deputy Johnson. I think that the utterance of the President was not the utterance of a Minister considering broad schemes of national requirement, but the utterance of an impecunious Minister for Finance.

It is quite true, I think, what Deputy Johnson said that the statements of the Minister of Finance rendered useless in future any further meeting of the Reconstruction Commission. Why was this Reconstruction Commission set up? It was set up with certain terms of reference, and was designed to cover considerations of broad general works of national utility. I was invited to become a member of that Commission, and I did so with very great reluctance. My reluctance was largely due to the fact that these terms of reference were stupendous. They embraced nearly every phase which was possible to conceive of national regeneration. The terms of reference were comprehensive enough to embrace all, and were intangible and vague enough to exclude anything which was undesirable to deal with, but why was such a Commission set up, if it was not to find means by which the State could operate, through its finance, for the well-being of the community? If these were the considerations which were to govern the deliberations of such a Commission, the announcement of the Minister for Finance to-day, renders it useless to pursue the hope that such assistance will be forthcoming. Certainly there is great argument and logic in Deputy Johnson's contention that the trunk roads of the country are not matters of local consideration, but are matters for State consideration. There is no section of the main roads or trunk roads of the country the use of which is confined to the particular area through which these sections of the road pass, and as Deputy Johnson pointed out, the main damage done to these roads is by the heavy military motor traffic that has passed over them in the past few years. These roads were never designed or never prepared for such a traffic, and the County Councils cannot be expected to face the task of keeping these roads in a proper state upon their own resources. Furthermore, the question of the re-conditioning and the re-construction of the roads is, undoubtedly, a matter of consideration, because the roads are the most vital arteries of national transport, and the condition of these roads will be a matter that will enter very seriously into the improvement of the commerce and trade and industry of the country in future,

I must say I am really disappointed with the utterance of the President, who, of course, has to count every penny in the national purse, and if he discovers that money is not available, I presume he is not to blame, but the fact had better be stated, and we will know where we stand. It certainly does bring us right up against the fact that to appoint a Commission to enter into the consideration of schemes, the carrying out of which are absolutely contingent upon State aid, and when they have proceeded to a certain extent with their deliberations and their report, to inform them that such State aid is not available or likely to be available, makes it futile and farcical to proceed with such Commission unless the State is in a position to make good its implied undertaking that it gave in setting up the Commission.

Mr. COLOHAN: I wish to add my voice to the disappointment expressed by Deputy Johnson and Deputy Milroy at the announcement made by the President. It will be cold comfort to the labourers of the country who are walking about hungry, to learn what the Minister has to say about this reconstruction on the roads. Take my own County of Kildare. There are hundreds of men starving, and when they go to the Labour Exchanges to get their 6s. or 7s. a week they are kept waiting for a long time for their miserable few shillings. We are told the matter is receiving attention. Time after time we are assured that the claims for unemployment benefits are receiving attention, but how they are to procure food while they are waiting to receive it is a matter of no moment for this Legislature. The Minister now says that the local authorities must maintain and re-condition the roads, and in these he includes the trunk roads. How are local Urban Councils with small rateable areas and large distances of trunk roads running through them, to bear the expense? Naas has a trunk road from Dublin to Kildare for a length of ten miles running through it. How are the people of that district to maintain that out of their income? They have to do so, and consequently the rates are 17s. 6d. in the £. That trunk road passes through their district, but it does not bring any money into their district, and they have simply to main-

tain the road for this through trunk traffic through their district.

There is another matter that I want to bring to the notice of the Minister, and that is that the few industries that we have in the country are being shut out and cut off. We have a mineral water factory in Newbridge, with a bottling store attached to it, but these people cannot get their goods into the Curragh simply because one contractor has a monopoly of supplying everything to the military. The local people are simply shut out, and yet they are supposed to be loyal to the State. In Ballymore there is a little woollen industry, and that is closed down and unable to give any employment. Still the cloth for the uniform of our soldiers comes from Bradford and Leeds. That is not right. I asked a question about a man who was in collision with a military lorry: this man was working for the County Council, and his car was smashed and his horse injured. When he spoke to the military, and asked them to get out of his way, he was told to go and be damned. That was the way he was treated by these men. That unfortunate man is idle for the last ten weeks because of this accident, but we are told the matter is receiving attention. Perhaps it will receive attention in twelve months' time. There is another matter I would like to bring under the notice of the Minister for Defence, I presume I can do so under this Bill.

AN CEANN COMHAIRLE: I think it would be better to get this question of local loans settled first.

Mr. COLOHAN: I would ask the Minister for Finance to consider seriously this question of having work started under a road scheme. I would ask the Government to give the people a chance to get work, because if the scheme is delayed too long there will be no people to work when you have work for them; they will all have been starved to death. It has been said that there is no money to start reconstruction works, but there is plenty of money, apparently, to support the Army. I would ask the President to give the people a chance to live in their own country, and one of the ways to do that is to have a road works' scheme put into operation.

CATHAL O'SHANNON: I think that in the long run the Minister for Finance will find that the attitude he has expressed here to-day is, from the State point of view, a mistaken attitude. I thoroughly agree with the Deputies who have spoken on this matter, and particularly in connection with the roads. It is not possible for the local authorities to handle this particular problem satisfactorily. It is not a problem that affects merely the Saorstát, but it affects other countries as well. It is an urgent problem in Great Britain and the Six Counties and elsewhere, and the whole movement in these countries is towards a realisation by the State of a greater responsibility, particularly for the main and the trunk roads. I will just content myself with giving a case in point which came within my own knowledge, and probably within the knowledge of the Minister for Finance. I refer to the county surveyor's estimate for certain roads in the Dunshaughlin area. Deputy Colohan has spoken about the main roads carrying Dublin traffic southwards. The roads I am referring to carry general traffic from Dublin northwards. They form one of the great arteries towards the North. Now, the county surveyor and the local council in this area have found that they could not deal decently, not to speak of dealing properly, with the roads in the area unless they struck a rate that amounted to about £17,000. That sum, I understand, has actually been collected, though there are some parts of the country in which the rates were struck but not collected, but in this particular area that amount has actually been collected. The Government Department concerned has insisted—I do not know whether it was on the suggestion of certain deputies who asked certain questions in the Dáil in respect of this matter—on the reduction or the holding over of that estimate by reducing it by £6,000 or £7,000, leaving the sum available at between £10,000 and £11,000. The roads that I am referring to have suffered very severely from heavy military and other traffic, and cannot be put into any sort of decent upkeep on a sum of £10,000. The thing is impossible. The county surveyor, as I know, is not a man who is wasteful or extravagant. He is a man who knows his job, and the greater part of that sum of £10,000 has already been

spent in the last four or five years. What remains, if the Government Department's decision is to be carried out, is only a sum of between £2,000 and £3,000—and that is supposed to enable the Council to carry on, as far as road-making is concerned, for the next seven or eight months. It would be impossible for the Council to carry on with that small sum. The fact of the matter is, that the points raised in this interim report will have to be dealt with, and dealt with immediately, because in going over the country, and even outside the Saorstát, one finds that the heavy traffic of the last few years has done great damage to the roads. The likelihood is that within a comparatively short time the roads will be beyond supporting any kind of traffic on account of the damage that had been done to them, and it is not possible for the local councils to deal with that problem as it ought to be dealt with. The roads are a national concern, and they ought to get national assistance. There were several other matters concerned in this interim report. There is, for instance, the matter of the upkeep of the roads and the traffic on the roads, and there is the matter of unemployment. One, in my opinion, is equally as important as the other; but it certainly will not give anything like satisfaction throughout the country, and, even if it did give satisfaction to the superficial observer, it will not be satisfactory from the State point of view, or from the point of view of the whole country, because it is tantamount to a neglect of this work by the central authorities or by the State. My complaint is that the State is going to allow the roads to get into such a state that they will be unfitted for the traffic they ought normally to bear.

The PRESIDENT: There has been a good deal of criticism from Deputies on this question, and I must say that it has been rather helpful. I certainly cannot complain of the tone of it. I would ask Deputies to consult first of all the items that are down in this Appropriation Bill, and to take the sum total of them, and to add to that sum the total amount that had to be borrowed last year, and which I indicated to the Dáil more than once has got to be met by the 31st March, the last day of the financial year that we are now in, and to

deduct from these two sums the estimated revenue for the current year. If they do that they will find that there is a deficit of twenty-five millions. The question now to consider is, first of all, the raising of that sum of twenty-five millions, and, secondly, whether we are proceeding on a strictly economic basis to raise that sum of twenty-five millions. During the last few months, in the discussions on the Finance Bill No. 1, Deputies will recollect that several attempts were made to reduce the revenue by restricting the taxes upon certain goods, including, I think, tea and sugar, and also to reduce the Income Tax, so that we would have been left even with a larger deficit had these recommendations been adopted at that time. Now, when I say, as Minister for Finance, that this thing is impossible, and that that thing is impossible, I am not speaking of what my own wishes or sympathies would be in the matter, but simply telling you what are the exact facts of the case that you have got to deal with. If the Commission which considered the question of reconstruction entered into a consideration of that question with any idea that Government money was to be available to such an extent for subsidising what is, in essence, a charge on the local authorities, then I say that they made a very serious mistake. I have the highest respect for practically every member of that Committee, those of them whom I recollect I admire for their business capacity, ability and zeal, but I say that they did not enter into the consideration of that question with the mind that the circumstances of the times should have insisted on. The State cannot afford, under any conceivable circumstances that I know of, unless the Government is to be reconstructed on an entirely different basis, to give such a subsidy as £2 for £1 to a local authority for what is mainly a local service. This particular question of road reconstruction is not provided for in this estimate. A sum of £100,000 is put down, but out of that amount it is proposed to advance to persons who have secured decrees in the period between January, 1919, and July, 1921, such sums as will enable them to proceed with the reconstruction of their dwellings. There is, however, provision this year for local authorities raising in their various districts,

sixpence in the pound, which the Commission estimated, I think, should produce £260,000, but which I am of opinion will not exceed £250,000. There is also an estimated income to be received for motor taxes of practically an equivalent amount, and divided by twenty-six it will be found that a sum approaching £20,000 per county, on the average, will be available. That, together with the ordinary normal sums estimated for by the local authorities, should make an appreciable advance upon the present condition of the roads, granted the goodwill and the co-operation of all persons concerned. In certain cases there was some objection, very considerable objection, to raising this sixpence in the pound, and I presume to some extent the idea may have prevailed in the mind of the persons concerned, apart from any Irregular sympathies that they may possibly have given expression to in such an objection, that this was war wear and tear, and consequently that the Central Authority should provide for it. I think we have dealt sufficiently with that in the Damage to Property Act, and that there is no necessity to go into the matter again except to say this, that it is the only expense that the local authorities are asked to contribute towards all the losses that have been sustained during the last four or five years. I have explained over and over again that whatever anybody lost the local authorities lost nothing in this war; that their withheld grants have been paid to them, and a very considerable and marked reduction has taken place in the rates. Certain local authorities, not entering into the spirit of this Damage to Property Act, struck a smaller sum for the repair of the roads than would normally have been inserted in their estimates if it were not for this sixpence in the pound. This sixpence in the pound malicious injury rate and the revenue anticipated from the motor taxes, together with the sum that I have mentioned, which is certainly in the neighbourhood of another quarter of a million, provides something like three-quarters of a million pounds for improving the roads. That is a very considerable estimate, and unless the Dáil is willing and anxious to strike further levies in the nature of taxation, additional impositions, there is no chance whatever of the consideration of any extension of the Estimates that are before you. I am sure that it is un-

[The President.]

necessary to stress the importance of balancing the Estimates, balancing your receipts and expenditure. That is not done this year. It must be done before the end of this financial year, and it will mean that there must be a very considerable economy in the services that have been proposed, or, failing that, a very considerable increase in the taxes that have been levied.

Mr. JOHNSON: The Minister has reminded the Dáil of the state of the Estimates—the income estimated and the expenditure estimated. I would like to draw the attention of the Minister and of the Dáil to these two facts, that the Commission was set up and began its sittings about February. The Estimates, showing all that he has now told us, were prepared by his Department in March at latest, and were published towards the end of March. If there was no chance then in view of those Estimates, of any public funds being available for public works, why was not the Commission told so, and it would not have wasted its time? The Commission was set up to make recommendations, having particularly in mind the urgency of the problem of unemployment, and to submit interim reports as might be found necessary. There is no other way of financing public works except out of State funds; there is no other way of making these roads fit for use except out of State funds; there is no other way of meeting the housing problem except by a considerable drain on national taxation. If that is the position—if the Minister cannot find any other method of dealing with these problems—then scrap all your Commissions. Do not pretend that you are setting up Commissions to suggest or to advise on points of public work, and then say, "We have no money, and we are not going to get any money." I say that it is a waste of time and a scandal.

The PRESIDENT: It is no less a scandal than asking for £2 for £1 for any service. I think that was the most scandalous recommendation, having regard to the necessity for economy, that was ever made, and I am astonished at the Committee making such a recommendation.

Mr. JOHNSON: It is a recommendation to spend a million for two years.

The PRESIDENT: And with no return.

Mr. JOHNSON: Are good roads no return, no benefit to the country?

The PRESIDENT: What return will you get out of it? What employment will it give you?

Mr. JOHNSON: It gives you roads. Roads are what we want.

The PRESIDENT: It gives you something that you will wear out in a few years.

Mr. GAVAN DUFFY: There are two or three matters on which I would like to have the opinion of the Executive before we pass from finance. First of all, the Dáil is aware that in the Army Estimates there are large sums dealing with purchases of munitions and various articles of war, and many of these come from England. We have always spoken of these matters and heard them spoken of as purchases. I want to know whether it is the view of the Minister for Finance or of the Minister for Defence that Ireland is to pay for the guns and for the military things obtained from England. I devoutly hope that no such heresy will be preached from the Ministerial Benches, but one never knows. I put it to the Dáil that the effect of the Treaty is a dissolution of partnership, an unwilling partnership if you like, but still a partnership; and upon that dissolution we are entitled to a valuation of the assets; that consequently any material which it may have been necessary to obtain from England ought to be treated as so much on account of the prospective assets which will, no doubt, be recognised as ours when the accounts and balance sheet are finally drawn up. But it would be useful that we should know that the view of the Ministry is that this dissolution of partnership is one in which we are entitled to the benefit of our share, obtained by many millions of Irish money, of such items as those to which I refer. There is another question that I should like to know the Ministerial view upon, the question of Trusts. Has the Ministry a policy as to the admission of foreign Trusts into this country? I raise the matter very briefly, and I desire to take no particular view on the question; but for the purpose of enabling those who

have expert advice behind them, to tell us what their policy is. I have no objection whatever to foreign competition; but Trusts are in a rather different category. Every considerable country, and many small countries, have found it necessary in recent years to pass special legislation, either to keep out the foreign Trusts or to restrict the operations of Trusts of their own as well as foreign Trusts. I am not sure whether it is the Ministerial view that the curiously-drafted instructions comprising the Terms of Reference to the Committee recently set up on fiscal matters, would authorise recommendations from that body on that particular question. I sincerely hope they will give us their recommendations on this question. Let me point out to the Minister one difficulty likely to rise in the case which we all have in mind. Quite apart from the question of under-cutting and other obvious dangers, what is going to happen if a big foreign tobacco trust, having established itself in this country, establishes a number of retail shops of the Salmon and Gluckstein line all over the Irish cities? There will be nothing to prevent them; and these shops will be exceedingly attractive. Where will the retailer be then? I do not want to go into detail on the matter, but I do want to know if this problem has been considered and if there is a Ministerial policy upon it. The danger, it seems to me, is that when one allows large sums of money to be spent by foreign Trusts of that kind coming into this country, that the next Government, when it has to tackle the matter, will be in a difficult position, because these people will have come into the country, and will have spent their money. I quite admit there is plenty of attraction on the other side, the employment they will give and the better tobacco, perhaps, they will bring in; but is there a policy to have any restriction on them, or are they to be let in without restrictions, and if not what will these restrictions be?

I hope that the next Government will profit by the experience they have had in the Dáil, and, before asking the Dáil to pass Estimates it will place all the Estimates before a Special Committee on Estimates. I hope that if the next Government does not want to do so, that the next Dáil will insist on their doing

so. I am very anxious to see an Irish [Parliament setting up such Commissions as they have in foreign Parliaments for dealing with such matters. In France there are five such Commissions, of which Finance is one. I think it will be generally agreed that it will be impossible for the Dáil, and it has been proved impossible, to do itself justice in the matter of examining the Estimates put before it by the Executive in the absence of some such particulars (rather than vague general headings), as would be put before a Special Committee. I do think that a great deal of time would have been saved, and more efficiency secured in dealing with these matters, as well as, perhaps, some reduction, had not the Ministry objected for some reason, which I have never been able to fathom, to allow special Committees to deal with the Estimates. I hope that next year that course will be followed.

CATHAL O'SHANNON: To return to the matters which we were discussing before Deputy Gavan Duffy spoke, I think I might say that the issue is pretty well knit, and the issue is whether the main arteries of the country, apart from the railways, are purely a local concern, a local interest and a local charge, or whether they are partly a national interest and charge and partly a local interest and charge. The President takes the view that they are purely local. With all due respect to his knowledge, and to his interest in the country, I submit that he is altogether and quite mistaken. The roads in Ireland are of two kinds. There are the local roads, and there are the main or trunk roads, and by every argument of common sense and economy even, they are as truly a national concern as any other line of transport or of communication, whether that line be railroad or telegraph or any other line. For that reason alone the State and the National Exchequer has an interest in and should have a charge upon them, but, as I have shown, so far is the Ministry from taking that view, that even when a local council goes out of its way to shoulder a burden which is not properly its own, and to collect what is calculated to be the bare minimum sufficing for keeping the roads in some repair, the Ministry refuses to, that council to spend the money it has collected, and refuses,

[Cathal O'Shannon.]

above that, to give anything towards the upkeep of the roads in that district. "What return," asks the President, "shall we get; what return in employment." A fairly considerable return in employment. The President thinks not, but he has been answered: "Thoroughly good roads." "Oh," he says, "they will only last two or three years." Now, in his quiet moods the President would only laugh at anyone else who would make such a ridiculous statement—as if the roads were not of great importance and concern. Everyone knows, no matter what the road is, that it must be renewed at periodical intervals. The recommendations made by the Commission referred to are for the strengthening of the roads and the re-conditioning of them. I think it would be unfair, after the criticism, to put it no stronger, that the President has made on the Commission's report. The sum and substance of the Commission's report is that a scheme of finance be something like this, that the local authorities strike a special improvement rate of between 3d. and 9d. in the £1, calculated, whether the calculation is correct or not it is another thing, to bring in £282,000 per annum.

If a small amount could be raised from the banks for each £1 raised locally, the State would add £2. Now, I would point out that towards the State's own contribution there would go the motor tax, estimated at £250,000. It would mean a considerable saving of unemployment, and, with the reduction of Army expenditure referred to by the Commission, would help considerably. In the long run what the State is asked to do is not simply to pay out £2 in the new for every one pound raised locally, but to pay something which would not actually be £2 of new expenditure, because there would be a portion of the £2 saved or brought in in other ways.

It is obvious to everybody who has travelled on the roads that there should be restrictions and limitations on heavy traffic. There are certain restrictions as regards the railways in relation to this sort of traffic, but everybody who has travelled the roads knows that it is ruining them from one end to the other. I have gone over a stretch of road, and the traffic is so heavy on that road that it is almost impassable in bad weather.

The President is taking, in my opinion, a most peculiar view of the whole thing, and I submit it is quite a wrong view that the main roads are a matter of purely local concern. They are not. They are just as much a national concern as the industry and trade of the country, or as the railways or Post Office, or any other service that is recognised as of really national importance. For that reason they ought to be not only a national concern, but the nation, as apart from the local community, should bear its share of the charge for improving them and making them fit for the traffic they are required to bear.

Mr. COLOHAN: There is one little matter which I would like to bring before the Minister for Defence. It is a case of a tailor who was employed in Newbridge Barracks. He was invited by a military officer to come over from Leeds, where he was employed, to take charge of the tailor's shop in Newbridge. He came over, but he was unable to get to Newbridge in time—that is, before the order stopping recruiting was issued. Consequently he would not be attested. He worked in all 466 hours, and he has not received any payment. I sent on a letter, a copy of which I have in my hand, to the Quartermaster-General at Parkgate Street, on the 23rd of this month. He replied on the 'phone that he would deal with the matter, but as everybody is of opinion that the Dáil will soon be dissolved, I would like to see this matter cleared up. I would like to get an assurance from the Minister that he will see that this man is paid. He is walking about since the 21st, and it is not fair. I would ask an assurance from the Minister that he will look into the matter with a view to having it cleared up. I know the man for twenty-five years to be a respectable citizen of Newbridge, and in my letter to the Quartermaster-General I told him that his competency as a military tailor could be vouched for by Captain Fitzgerald and Captain Ward, of the Supplies Department, Island Bridge. There is no question of any slackness on his part. The man has been treated very unfairly, and I think it speaks badly for the Army regulations and discipline that a man should be treated in that callous way.

MINISTER for DEFENCE (General Mulcahy): I can assure the Deputy that the matter will be looked into.

The PRESIDENT: In answer to Deputy Duffy's question, I think the sum down in the Estimates for warlike stores is £115,000. The other matter to which he drew attention is somewhat belated, because we have been looking after that for the past twelve months. It has not escaped our attention at any time that a portion of these warlike stores, such as furniture, etc., should be claimed for. We are not in a position to say at the present moment what is the value of the total amount, or what our particular share would be, but we have not lost sight of that matter.

With regard to the other matter, I think that was before the Dáil before. I take it the question of Trusts means the Imperial Tobacco Company, though I do not know whether that is a Trust or not. That matter has been under the consideration of the Ministry of Industry and Commerce, and a deputation from the Irish tobacco manufacturers met in my office some time ago the officials of the Ministry of Industry and Commerce. It was arranged that the Ministry should see the representatives of the Imperial Tobacco Company. I have not had a report on that yet. As far as policy is concerned, I do not think it is possible to lay down lines of policy governing everything which affects the interests or vital needs of the country within the short space of twelve months; nor do I think it at all likely that within the next few years one could give off hand a prescription which would cure all the ills we have to cure or any succeeding Government will have to cure in our time. Every disorder, I suppose, requires a very close diagnosis, and possibly when it is diagnosed it is much easier to cure it. In this particular case I expect the Deputy knows that there is a considerable amount of Irish money sunk in that particular limited liability company. I expect also the Deputy, who is not, I think a non-smoker, knows that the particular brands manufactured by that Company are effected by very large numbers of people. If the Company were to be excluded, the manufacture of those would be going to foreigners, as would also the profits. Income tax and so on would not be coming

into the Irish Exchequer, nor would they contribute anything towards rates. I am sure the Ministry for Industry and Commerce is considering those questions.

Mr. GAVAN DUFFY: If I may say so, I did not raise the matter with a view to that specific case, but with a view to getting Government policy laid down generally as regards trusts. That case gave occasion for it.

The PRESIDENT: I do not know whether the Ministry of Industry and Commerce have a policy with regard to the Trusts as a subject in themselves. I do not know whether they have got that far. I should say their hands have been very full since the Ministry was established with regard to all the different services that they administer. There has been some industrial effervescence of one sort or another, and I am sure a good deal of the time of the Ministry has been absorbed in composing the natural differences that occur between those two different orders in the community—Labour and Capital. I think that the matter that the Deputy refers to will be considered by the Fiscal Committee. I should say that it would. A definite line of policy has not been adopted with regard to this, nor would it have been possible, having regard to the work we have had to do for the last twelve months, to have examined the problem and to have weighed all the pros and cons of it, and to submit a proper report to the Dáil on the subject or to be able to define a policy with regard to it.

Question put and agreed to.

The Title put and agreed to.

THE DAIL RESUMES.

Bill reported without amendment.

Motion made and question put: "That the Bill be received for final consideration."

Agreed.

Motion made and question put: "That the Bill do now pass."

Agreed.

AN CEANN COMHAIRLE: This Bill is a Money Bill.

THE DAIL IN COMMITTEE FINANCE (No. 2) BILL, 1928

SECTION 1 (SUB-SECTION)

An Approved Society within the meaning of Part I. of the National

Act, 1911, having its principal office situate in Great Britain or Northern Ireland, and any branch of such a society, shall be entitled to exemption from income tax for the year beginning on the 6th day of April, 1923, in respect of the income derived from any funds or credits of the society under that Part of that Act, or any investment thereof, and the Insurance Commissioners, the Scottish Insurance Commissioners, the Welsh Insurance Commissioners, and the Ministry of Labour in Northern Ireland shall be entitled to a similar exemption in respect of any income derived from any funds held by them, or under their control or management, under or for the purposes of that Act.

AN CEANN COMHAIRLE: There is an amendment to Section 1. It is being taken in Committee, but it is really a verbal amendment. It is in Sub-section 1 to delete the words "and the" in line 18 and the words "Insurance Commissioners, the Scottish Insurance Commissioners, the Welsh Insurance Commissioners" in line 20, and to substitute therefor "the Minister for Health for England, the Scottish Board of Health." I understand that the Ministry of Finance has discovered that the people mentioned in the Bill as drafted do not exist.

Mr. JOHNSON: Does the Minister for Health in England include the Welsh Commissioners under his supervision?

The PRESIDENT: I think, Sir, the Welsh Commissioners are under the Ministry of Health for England.

Amendment put and agreed to.

Motion made and question put: "That Section 1 as amended stand part of the Bill."

Agreed.

Sections 2 and 3 and the Title put and agreed to.

THE DAIL RESUMES.

Bill reported with one amendment.

Motion made and question put: "That the Bill be received for final consideration."

Agreed.

Motion made and question put: "That the Bill do now pass."

Agreed.

AN CEANN COMHAIRLE: This Bill is also a Money Bill.

INDEMNITY BILL, 1923.

FIRST STAGE.

The PRESIDENT: I move for leave to introduce a Bill to restrict the taking of legal proceedings in respect of certain acts and matters done during the suppression of the state of armed rebellion created by the attempt to overthrow by force the lawfully established Government of Saorstát Éireann, and to validate sentences imposed by military tribunals established in the course of the suppression of the state of armed rebellion aforesaid, and to provide for the review of such sentences and for other purposes connected therewith.

Question put and agreed to.

Second stage provisionally ordered for Tuesday, July 31st.

SUPERANNUATION AND PENSIONS BILL, 1923—COMMITTEE.

AN CEANN COMHAIRLE: As there is to be a new Section inserted, the title of this Bill will have to be amended and a Special Report made. The Dáil will now go into Committee on the Bill.

DAIL IN COMMITTEE.

AN LEAS-CHEANN COMHAIRLE took the Chair at this stage.

Sections 1, 2 and 3 were agreed to and added to the Bill.

SECTION 4.

(1). If the Minister for Home Affairs certifies in respect of any person who is suffering from any disablement due to a wound received,

(a) That such person was at the time he received such wound a member of an organisation to which this section applies;

(b) That such person received such wound or injury while performing his duty as such member and without serious negligence or misconduct on his part; and

(c) That such person was, previous to the date of such certificate, discharged from such organisation as being medically unfit for further service therein,

the Minister aforesaid may with the

sanction of the Minister (for Finance grant to such person the like wound pension or gratuity, and, if a married man, the like further pension as could be granted to such person under Sections 1 and 2 of the Army Pensions Act, 1923 No. 26 of 1923), if he were an officer or a soldier (as the case may require) to whom a wound pension or gratuity or a further pension could be granted under these sections.

(2) If the Minister for Home Affairs certifies in respect of any person who was killed or who has received a wound before the passing of this Act and has or shall have died within three years after receiving such wound or injury and solely in consequence thereof

(a) that such person was at the time he was killed or received such wound a member of an organisation to which this section applies; and

(b) that such person was killed or received such wound or injury while performing his duty as such member and without serious negligence or misconduct on his part,

the Minister aforesaid may, with the sanction of the Minister of Finance, grant to the widow, children, dependants or partial dependants of such person the like allowances and gratuities as could be granted to such widow, children, dependants or partial dependants under Section 7 of the Army Pensions Act, 1923, if such person were an officer or a soldier (as the case may require) to whose widow, children, dependants or partial dependants an allowance or gratuity could be granted under that section.

(3) Every pension granted under this section shall commence from the date on which the person to whom it was granted was or is discharged from the organisation of which he was or is a member and every allowance granted under this section shall commence from the date of the death of the person in respect of whom such allowance is payable or from such later date as the Minister for Home Affairs shall in any particular case appoint.

(4) Sections 5, 10, 11, 12, 13 and 14 of the Army Pensions Act, 1923, and all regulations made by the Minister of Defence under Section 6 of that Act shall apply to pensions, allowances and gratuities granted under this section in the like manner as those sections and

regulations apply to pensions, allowances and gratuities granted under that Act save that the word "Minister" in the said sections 5, 10 and 11 shall mean the Minister for Home Affairs, and the expression "Ministry of Defence" in the said Section 12 shall include the Ministry of Home Affairs.

(5) This section applies to those armed organisations specially raised, before the passing of this Act, by the Minister for Home Affairs for the maintenance of order or the protection of persons or property, under the respective designations of the Criminal Investigation Department, the Citizens' Defence Force, and the Protective Force.

(6) For the purpose of determining the rate of any wound pension or further pension or the amount of any allowance or gratuity to be granted under this section, the person to or in respect of whom the same is granted shall be deemed to have held the rank in the forces which shall be certified by the Minister for Home Affairs to correspond most closely to the rank held by such person in the organisation of which he was a member.

(7) All words and expressions used in this section which are also used in the Army Pensions Act, 1923, have the same meaning in this section as they respectively have in that Act, save that the word "wound" when used in relation to a member of an organisation to which this section applies means any wound or injury received by such member in the course of his duty."

THE PRESIDENT: I beg to move the above Section.

MINISTER for DEFENCE (for Mr. Duggan): I beg to move the following amendments in Sub-section (1), line 46, to insert immediately after the words "who is" the words "or shall be."

In Sub-section (1), line 47, to delete the word "received."

In Sub-section (1) (b), line 50, to delete the words "or injury."

Amendments agreed to.

General MULCAHY: I beg to move in Sub-section (2), line 2, to delete the word "was" and to insert in lieu thereof the words "has been, or shall be," and to insert immediately after word "has" the words "or shall have," and in lines 2 and 3 to delete the "before the passing of this Act."

The PRESIDENT: As the Sub-section stands it would mean a man suffering to-day or at the passing of the Act. This provides that the man should be injured after the passing of the Act.

Amendment agreed to.

General MULCAHY: I move as an amendment in Sub-section (2) to delete the words "or injury" in line 4 and in lines 9 and 10.

Amendment agreed to.

Mr. JOHNSON: Before you put the question that the section as amended be agreed to I want to ask for further light upon Sub-section 5. The Minister for Finance, in introducing this Bill, and in reply to certain questions put to him, told us that the Protective Force referred to in sub-section (5) was a Force that had for its object the protection of property. The Citizens' Defence Force was a force that had to do with the protection of persons. We have some general knowledge of the Criminal Investigation Department, but I think before we pass away from this Section we ought to have some information about these two Forces. In passing this we are committing ourselves to pensions for members of a Force of which we know practically nothing. We do not know the extent of this Force. we do not know their work; we do not know how they are officered; what are their numbers; what is their pay, or what kind of commitments there will be when we are asked to admit them into the category of those who will receive pensions. I asked the Minister if he will, before we get away from this section, give us some details as to this Force. We know what a police force is. We know what the Civic Guard is, and what the D.M.P. Force is. We know something about the Criminal Investigation Department and its headquarters, but we do not know anything about these two special Forces. We learn now that they are under the control of the Minister for Home Affairs. Are they controlled from the Head of the Criminal Investigation Department? Are they a separate Force? Where is their headquarters? How are they officered? Do they wear uniforms? Do they carry with them any authorisation? Have they taken part in raids? Are they armed? There are many questions that might be

asked, and questions which will need to be asked, if we are to get the necessary information about this force. I ask the Minister if he can go into little details as to this organisation before we are asked to pass from this Section, which authorises the payment of pensions to those members of this Force who have been incapacitated.

Mr. DARRELL FIGGIS: I desire to support the request made by Deputy Johnson for some fuller information. With regard to this Sub-section (5), particularly with regard to the Force he spoke of, I wish to raise it, not in order to cover the ground that has already been taken, but because I think it is a very important question for the Dáil that is raised in a sub-section of this kind in this Bill, because the Dáil has got no information whatever with regard to the existence of this Force. Vague rumours have been circulated that such a Force exists, and matters were charged to them which were sometimes not very desirable, and I believed these rumours had no foundation in fact, and that there was no such Force in existence. It appears now there have been such Forces, namely, a Defence Force and Protective Force. Now, learning of them in this casual and incidental way by the introduction of this measure, we were requested to give statutory recognition without any definition of the place they are to fill and the work they are to do. Presumably if such a Force existed they have been covered by moneys voted somewhere. I have been looking through the Estimates, and no Estimate has been passed for the expense of such a Force as this. I would like to know if the Minister would let the Dáil know and have the fullest information with regard to them, and also let us know under what Minister they are, and under what Vote money has been allocated to them. He might also tell us how long they are to continue, and whether, in fact, they are still in existence. In any event, it is a very undesirable course of procedure that a Force of this kind should be given statutory recognition in this casual and incidental way. If it was necessary that this Force should be created, and one presumes such a necessity existed, or else it would hardly have been called into existence, surely the

proper course would have been to have passed legislation by which they could be recognised, and not brought in parenthetically and incidentally in a sub-section. If we had passed this Bill without this information being elicited it would have been possible to have said that this Dáil had recognised them legislatively, because they were mentioned in a Bill passed by this Dáil, although this Dáil had no information before it as to their existence and foundation.

The PRESIDENT: The Deputy will make some allowance, I am sure, for our difficulties in introducing legislation dealing with all these matters when he reviews what we have done and remembers the occasions that still more important engagements kept him absent from the Dáil. If he were here last week he would have heard, on Estimate 34, as much information as was available, or as we had to disclose regarding one of the particular bodies in question, the Protective Defence Force, and as regards the other Force, he would have also heard that when we found it necessary to organise this particular Force which is for a dual purpose, namely, of protecting citizens and protecting their property, that we had no other means of calling upon money for that purpose except out of the Secret Service Vote. I do not remember whether I mentioned at the time that out of the Secret Service Vote of £6,500 a sum of £6,050 had been already spent on maintaining this particular Force. The reason that the money had been spent out of that Vote was that the Estimates had already been prepared, and if we were to adopt any course other than the one we did, it would have required a Supplementary Estimate, or the money could not have been paid out of that particular item. His mind, I am sure, would be eased if he had examined paragraph (b) in the Secret Service Estimate dealing with this matter. It reads:—"Provision for this Force has been made for a period of six months." I presume that will set his conscience and his mind at rest with regard to that particular item. With regard to the Citizens' Defence Force, I am not in a position to say at this moment how much longer it may be necessary to keep that Force in being. I should hope that it will not be very long, but I am not going to undertake to say what the period should be. All I know

is that there has been a reduction in that Force, and I presume that, as far as possible, the members of that Force will be drafted into some of the other statutory Forces, if I may use that term. It is unreasonable to ask us when that transference may take place. We have not got statutory authority for that force at all, but we have as much statutory authority for it as we have had for the Army. The Army is only being legalised now by a Bill, and I am sure, if I were in a position to inform the Deputy how much property had been saved by reason of the recruitment of these two Forces, and of how many lives had been saved, he would be satisfied, perhaps, with the work they have done. As far as I know, at least one member of this Force has been killed, at least one, and possibly two. In one case where property was being guarded by a member of this Force it was subjected to attack from the Irregulars and the place was bombed from the outside. As the unfortunate man opened the door the bomb exploded and he was killed. He died doing his duty as his duty, and I am certain, from what I know of the work of the organisation, and what it has done, that the rumours that have been started regarding it are absolutely baseless. The Force, as far as I know, has been recruited from old members of *Oglach na hEireann*, some of whom would not have passed a medical examination. I do not know much about these cases, because it is not in my Department, but in the Department of the Ministry of Home Affairs. I think it is scarcely fair, having regard to the work that these men do, that there should be any suspicion attached to them. The Deputy knows as well as I do, that the members of that organisation, the old members of *Oglach na hEireann*, were very considerate in any public duties they had to perform, and because of the fact that out of the small number in the Force there has recently been one man killed and a certain number wounded, it would not be possible for us to give these men any pensions unless they were paid out of the Secret Service Vote, which might at any moment cease, and therefore there would not be a Statutory liability or any responsibility on the part of the State. For that reason we put them in here in this particular Vote.

Mr. JOHNSON: The Minister said there is only a small number of men in this Force. I would like to know the number, and whether they are under C.I.D. directorship or Army directorship. I would also like to know where their headquarters is, and I do not think it is too much to ask for precise information in connection with the Force whose members we are asked to vote pensions to.

The PRESIDENT: I am speaking from recollection, and, as I have stated, the Department is not under my direction, but as well as I remember the Force when formed was composed of 100 or 150 men. The number, I believe, is now down to 20 or 25. As regards its control, I believe it was, to some extent at any rate, under the control of the Criminal Investigation Department.

Mr. DARRELL FIGGIS: Is the President referring to the Citizen Defence Force or to the Protective Force?

The PRESIDENT: The Citizen Defence Force.

Mr. JOHNSON: Will the Minister give us this assurance, whether we can get it in the Dáil or not, that the Minister responsible will give the Seanad the information that is sought for?

The PRESIDENT: I do not know what question there is that I have not answered that the Deputy wishes to have information on. If his question be as regards numbers or control, or as regards the officers, then I say, Yes. I will get the information and give it to the Seanad.

Mr. JOHNSON: I asked some specific questions as to whether this Force was under the direction of the C.I.D., and if not, what direction it is under, and whether it is responsible to the Minister for Home Affairs or to the Army?

The PRESIDENT: It is responsible to Home Affairs or to the Army?

Mr. JOHNSON: Are these Forces under the C.I.D. or under the D.M.P., or are they a separate establishment altogether? To whom do they report? Where are their headquarters? What are the numbers of the respective Forces? Are they self-contained or are they subordinate to any other section of the Defence Forces, police or military?

The PRESIDENT: I do not know that I would be in a position to recommend the Minister for Home Affairs to give the name of the officer they are responsible to if they are not responsible to Oriel House. I think the Deputy will agree that as regards a service of this kind it must be expected that a reasonable reticence should be maintained in regard to the service.

Mr. JOHNSON: What Vote does their pay come out of?

The PRESIDENT: The Citizen Defence Force is paid out of the Secret Service Vote.

Question put: "That Section 4, as amended, stand part of the Bill."

Agreed.

Mr. DUGGAN: I move:—

"To insert immediately before Section 5 a new section as follows:—

5. (1) The Minister for Finance may from time to time by Order authorise the grant of pensions, allowances or gratuities to persons who resigned or were dismissed from the Royal Irish Constabulary on or after the 1st day of April, 1916, and before the 11th day of July, 1921, and whose resignations or dismissals from that force are certified under the hands of the Ministers for Home Affairs and Finance to have been caused by their national sympathies, and may by any such Order regulate and appoint the rates and scales of such pensions, allowances or gratuities, and the conditions under which the same are to be payable, and may by any such order prescribe the penalties for any fraudulent conduct in relation to an application for any such pension, allowance or gratuity.

(2) No Order made under this Section shall come into operation unless and until it has been laid before each House of the Oireachtas and approved by resolution of Dáil Eireann, and when considering any such resolution Dáil Eireann shall duly consider any recommendation which shall have been previously made by Seanad Eireann in respect of such Order.

(3) No person shall be entitled to receive any pension, allowance or gratuity under this section unless money for the payment thereof shall have been voted by the Oireachtas."

I think the amendment explains itself.

Mr. JOHNSON: On this amendment, before dealing with the general question, I want to draw attention to the latter part of the first paragraph:—"And may by any such order prescribe the penalties for any fraudulent conduct in relation to any application for any such pension, allowance or gratuity." That, I think, goes beyond what should be allowed by an order. I would imagine that the ordinary law against endeavouring to obtain money by false pretences is quite strong enough without empowering the Minister for Finance to prescribe such penalties in an order. I wonder whether sufficient consideration has been given to this sub-section. I think it is too much power to authorise in this way, to give the Minister power to make an order prescribing the penalty, and I think the ordinary laws should be made applicable to any such cases. I would ask the Minister whether he thinks that that part of the amended section is really necessary or not.

The PRESIDENT: In the absence of any particular information from the Attorney-General I should say that in such cases there are prescribed penalties for infringing any pensions laws, but this is a new pensions law, and it is quite possible that, owing to the peculiar circumstances of it, that it might be open to abuse, and as such there might be a difficulty in prosecuting a person who had taken advantage of it and by fraudulent misrepresentation made a case for a pension, so that I take it the reason was that, it being special legislation dealing with a special class, unless provision were made for imposing such penalties it would not be possible to prosecute a person for making fraudulent representations in connection with it.

Mr. DAVIN: I take it that the insertion of this sub-section means that the men who have been looking forward to a pension in view of previous promises will receive the pension immediately the Bill is passed with this clause inserted, which we hope will be in the very near future. I understand that the number of claims submitted in connection with this particular clause is something around 1,100, of which 415 have already been rejected, so that it appears that the Committee, or whoever is responsible for the rejection of these particular

claims, are taking reasonable precautions to see that, at any rate, there are no fraudulent claims passed.

The PRESIDENT: I hope so.

Mr. DAVIN: My objection is to the insertion of the date, making it impossible that any pension can be allowed in respect of the period after the 11th July, 1921. I understand that out of the 415 claims rejected 33 were considered as outside the scope of the terms of reference. I have information that there are cases, genuine cases, of victimisation by the authorities who controlled the Royal Irish Constabulary after the date mentioned in the clause. I also know that the Minister for Home Affairs is personally aware of one or two very genuine cases of that kind, and I think that this date should be so extended or amended as to make provision for any promise made to these men in July, 1920. In July, 1920, the Sinn Féin organisation issued a circular to members of the Royal Irish Constabulary putting it up to them that, in the interests of their country, they should refuse to serve England, and that by doing so it would be impossible for the British to carry on the Government of this country any longer. I realise, and I am sure everyone else does, that if the Royal Irish Constabulary had responded to that appeal, no matter how many British soldiers were in this country, it would have been impossible for them to carry on the British administration. That circular stated: "Every man of Irish birth should get a chance of becoming a loyal citizen of the Irish Republic and of earning an honest living in Ireland; and that this is true even of those Irishmen who are so unfortunate as to be at present engaged in doing the work of the enemy in Ireland as members of the Royal Irish Constabulary; and that many of those men joined without a clear understanding of what they were doing." This is the sentence which I wish to bring to the notice of the Minister: "We desire it now to be understood that those who resign will not be regarded as enemies of Ireland, but will be granted every opportunity to make up for the past, and every effort will be made by Sinn Féin to obtain employment for them." That was the promise made by the Sinn Féin orga-

[Mr. Davin.]

nisation, with the backing of the Irish nation. Roughly 1,100 men responded to that appeal, and since that time many of these men are living on the charity of their relatives, who are good enough to keep them. This clause makes provision for some of them to get compensation for the sacrifices they made. I am personally aware of the fact, and it has been brought to my notice, that many of the men who resigned have been unable to get employment of any kind in this country, and it seems to be the policy of the big employers to refuse to give any employment to men who resigned in response to that appeal, whereas many of the disbanded Royal Irish Constabulary are filling positions in the big business establishments, and even in the Government service. I understand in the Government service that some of the disbanded men are being employed, whereas many of the men who resigned in response to the circular are still out of work. I know a case myself where some of the resigned men are employed on the North Wall as Customs watchers at £2 4s. 7d. per week, where pensioned men of the British service are employed at other similar work at £2 17s. 10d. per week. I think that is not the treatment that the people who met that appeal expected from those who are now in a position to give effect to the promises that they made. I have no brief for any individual member of that body, but I think they are being badly and harshly treated both by the employers, who probably are opposed to them for what they did at the time and the Government, for having so long delayed in giving effect to the promises made by their associates in July, 1920. I suggest to the Minister, in the first instance, that the date 11th July should be extended to make provision for whatever cases the Minister for Finance might feel to be reasonable, because of victimisation which took place after the Truce. There is another aspect of the case which I also desire to draw his attention to, and that is the case of short service men in the Royal Irish Constabulary who responded to this appeal and resigned.

I understand the number of such cases was 184, and simply because they had only 'two or three or four years' service

they were turned down, solely because they were short-service men. Look at it from the other point of view, and see how England treated the Black and Tans she recruited for doing her work at the time. These men have been given pensions or gratuities, and I suggest that any men who resigned in response to the appeal made at the time, whether they be short or long service men, should get the conditions they were promised, and that they should be treated not less favourably than the men who served England and fought against Ireland up to their disbandment. We have in the superannuation allowances in the Estimates a sum of £1,350,000 voted away for men who served England up to the time of disbandment. I suggest that the amount that would meet all the cases reasonably and fairly that could be proved would not amount to one-sixth of that sum. I think that they should be met in the spirit of the promises made at that time, and that any man who made genuine sacrifices should not be deprived of the operation of this particular clause. There are a few, unfortunately, of the men who resigned from the Royal Irish Constabulary who have since died, and I want to know in what way their dependants, if any, would be treated under the application of this clause. Also, there are a number of people who have sided, apparently, with the Irregulars. I would like to have a clear ruling from the Minister as to whether or not they are debarred from the application of this clause. The pension, or whatever is given under the terms of this sub-section, would be given to men for a certain action they took between certain times. I want to know from the Minister if those who are now what is termed die-hards will be debarred from the application of this particular clause.

The PRESIDENT: Sure.

Mr. DAVIN: As I said in the beginning, I have no brief for any particular individual, but I am personally aware in my own area of three cases of men with families who resigned from the R.I.C. in response to the call I have read, and it is very hard to think that men who took such a patriotic action should be starving. I trust that this particular clause will be given effect to immediately the Bill has passed, and that whatever pension or back money is due to these men will be given to them as soon as it is pos-

sible for the particular Department to make all the necessary detailed arrangements.

The PRESIDENT: There is no power taken under this section to give anything to widows, and I certainly will not pay the pension to any person who has been in arms, or otherwise seriously responsible, in connection with the late outbreak. It ought to be borne in mind that if we entertain all the claims for compensation in respect of what occurred here in this country for the last six or seven years, we would have a large proportion of the population living on pensions. We cannot afford to do that. A large number of men who gave good services will not draw any pensions, and have not got any jobs under the Government. These men who joined the constabulary and withdrew from it did not do a highly patriotic thing; it was their duty purely and simply, without any patriotism in it at all. I do not know that they would be treated better in any country, or as well. I do not see that I can change the date from the 11th July, and I do not think it is reasonable to ask that that should be done. From that date and for some time previous it was known the result was no longer in doubt, and there are a great number of people anxious to jump off when they see the result is no longer in doubt. If there are men with two or three years' service who left the R.I.C. they will not get pensions. If there are such, are not there a great many young men in the country who never did anything against their country's best interests and are in the same position?

Mr. DAVIN: On a point of explanation, I merely ask the President is he prepared to give effect to the promise given by the late General Collins and the Sinn Féin organisation when they asked these men to resign from the Royal Irish Constabulary?

The PRESIDENT: I do not know how I can give effect to every promise made by Sinn Féin. First, undertakings were given for which there was no statutory authority. I am prepared as far as possible to redeem every promise given by General Collins. What I mean is, that when he gave that promise a very different state of affairs was present before the country to what is now.

At that time you were in a normal, sound, financial position. Circumstances have changed, and it is not really too much to ask men to work for a living. I think we have met them as fairly as we could in the circumstances, and we have redeemed the promises that have been made to them.

CATHAL O'SHANNON: The President, I think, forgets that a certain number of these men have not, on account of their previous association with this particular Force, been able to get employment, and numbers of them are still unemployed, and probably will be unemployed for a very considerable length of time. The President says that there was not anything particularly patriotic in their resigning from the posts that they occupied. Perhaps not, but they occupied posts which I do not think they were induced to occupy on the ground that their occupation of them would be a disservice to the Irish nation. They occupied these posts because they were an avenue of employment, most of them, and for no other reason. At a certain stage in the struggle between Great Britain and Ireland it was thought that a very considerable service would be done to the side of the Irish forces by their evacuation of these posts. Many of the men rose to the greatest heights of patriotism, and they did service, and good service, to the National forces, and in a personal sense a disservice to themselves when they carried it out. If every young man in the country had simply done his duty, not to speak of rising to the heights of patriotism at all, the situation in Ireland would have been solved much earlier than the 11th July, 1921, or the 6th December, 1921.

I do not say that they rose to the greatest heights of patriotism, but I do say they did considerable service, and that it took a considerable amount of both moral and physical courage for these men to take the action they did, especially men who had wives and children or other people dependent on them. Another Minister—not the Minister for Finance—has pointed out quite truthfully and properly that certain men who remained in the service took big risks morally and materially, and that perhaps they did as good service to the Nation as if they came out. They certainly did good service. As many as a thousand of them on the call of the

[Cathal O'Shannon.]

National organisations threw over the allegiance they had entered into for one reason or another. That was a big factor in bringing about the state of affairs out of which the Saorstát has arisen. Nobody would recognise that better than the President if he found that, comparatively speaking, one-tenth of the present National Forces were affected by certain calls and changed their allegiance to another side. There is another point that I want raised; it is a bit ticklish, but I think it ought to be raised and faced squarely. It seems to me a fair reading of this section that men who are taking part in the revolt against the Saorstát would be penalised not only for the period of the revolt but for the whole period. I will say frankly and straightly that I do not think that that should be so. In the British service and in other services I know that members of certain forces who commit certain offences are deprived, during the period in which they are undergoing punishment for those offences, of their pension and such rights. I know many cases of members of such forces who joined the old I.R.A. and were deprived of those rights for the period of their imprisonment, but they had no difficulty at all in getting back their pensions when they resumed their ordinary avocations. I do not go so far as to say that those who have taken part in the armed resistance to the State, if there are any such, should be entitled to the receipt of their pensions for the period during which they were taking part in any such resistance, but I do not think that they should be penalised for a period prior to that. They are not in the position exactly of either the Army or the Police Force a year or two hence when we will have regularised all these things. They are not in the position of members of such forces a year or two hence, or rather ex-members of such Forces, who then may be in receipt of pension and commit offences and forfeit the pension for that period. That is not exactly the position at all. You are coming along at a fairly late hour in the day to give certain pensions to these people, and I do not think that it would be strictly just or good policy to make that penalisation stretch back over several years.

The PRESIDENT: If I were con-

cerned with the question of policy I suppose I would agree to give all these fellows pensions, but as I am concerned with the justice of the case I do not see my way to do it. I do say it would be unreasonable to ask people who have stood by the State, who have contributed towards the upkeep of the State, and who will have to contribute for many years, to grant pensions to persons who have placed such a shocking load of debt on the country and who have put back the hands of the clock for years. There is a tribe in this country as well as in other countries who will be perpetually in revolt. That revolt is their happy and advanced method of making their protest. We want to stop that. I think it is only reasonable that it should be stopped, and that these people should do honest work for the State in the future. It would take any one of those men the rest of his natural life to do atonement for the damage that has been done to the country during the last twelve or eighteen months. From that point of view alone I will not recommend the Dáil to consider for a moment the claims of any such persons for pension. When we consider how many people there are on our side who have rendered good services for whom we can make no claim, and some of whom have not benefited in their health by reason of the anxious times they went through and the hard work they did for some years past—when we can do absolutely nothing for them, to think of these people coming along, having participated in, you might say, two rebellions, and to benefit by both, is too much. This resignation of R.I.C. men would have been of some use if a large number of them had come out—say, four-fifths or five-sixths, or certainly more than half. As it was, it was very little or no use.

Mr. JOHNSON: That was not the fault of the men who came out.

The PRESIDENT: It was their fault to this extent. While we had to persuade the rest of the country to make a big claim and a big fight, if they had exerted themselves in a smaller area and with a very much smaller number of people to deal with, they could have persuaded a great many more, but that did not happen. This particular body was certainly a body of fine physique, and the claim

ought not to be put up that young men of fine physique should get pensions. I have not examined the question closely, but I have not got very much consideration for men who, after two or three years' service, look for a pension. Mark the dates—1916 to 1921. I do not know that there are many men who paid the slightest attention to Irish politics who would have been inclined to join the R.I.C. during that particular period. If the claim be on national grounds, they should have seen the light earlier. So far as the claims that have come in are concerned, they got very careful, fair and just consideration. I think we have dealt with them in such a manner as redeems any promise that was made.

Mr. DAVIN: Is not it right to say that the men who remained on in the R.I.C. up to the time of the disbandment are also being paid by the Irish people?

The PRESIDENT: Yes. They carried out their contract with their paymasters, and they are getting the benefit of it. Their paymasters staked that claim in respect of them; it is part of the bargain, over which you or I have got no control whatever. It is part of the Treaty, and we are bound to abide by it.

CATHAL O'SHANNON: Those gentlemen who fulfilled their contract, it now seems from the President's statement, were quite right when they told the men who went out on behalf of the nation that they were damn fools. They were the men who were largely instrumental in preventing a number of R.I.C. men from coming out on the side of the nation. I wish to join issue with the President that it was only a small proportion that came out, and that that proportion was of no service to the nation.

The PRESIDENT: I did not say of no service; I said of no vital service.

CATHAL O'SHANNON: I beg to join issue with the President on that, because, if it did nothing else, it effectively put a stop to recruiting for the R.I.C. Recruiting within Ireland for the R.I.C. stopped, to a very great extent, from the time these men commenced to throw up their jobs, and the British authorities were forced to seek recruits outside Ireland. I put it again to the President, and I put it to the Minister for Defence, that if one-tenth of the present National

forces were so affected by anti-Saorstát propaganda that they threw up their allegiance, it would be a very considerable service indeed to the forces operating against the Saorstát.

The PRESIDENT: I would like to know if this problem is being considered properly. To say that the present Saorstát forces are to be compared with the R.I.C., and that if the same percentage withdrew from these forces as withdrew or resigned from the old R.I.C., is certainly not making a parallel—

Mr. JOHNSON: It is merely the moral effect of such resignations that we are considering.

The PRESIDENT: The question is asked: What was the moral effect on the forces? Does anybody realise that in the case of the R.I.C. there was any effect?

Mr. JOHNSON: In the sense of disintegration?

The PRESIDENT: It is stated that a tenth of the R.I.C. resigned. It was not even a tenth, or anything approaching it.

CATHAL O'SHANNON: What was the number?

The PRESIDENT: According to the statement read by Deputy Davin, it was 1,094.

CATHAL O'SHANNON: Out of roughly 10,000.

The PRESIDENT: That is about ten per cent. The question is, how many years did these 1,094 cover, and were they all resignations by reason of this spiritual or patriotic call? Was the moral suasion exercised by certain other active members of the community without any effect at all? I am inclined to think that it had just as much effect as the patriotic call, and I am inclined to think that, so far as service was concerned, the men who remained on at great personal risk, and who were of certain service, were much more valuable. But I put the question on another ground altogether. Here you have a body of young men of splendid physique looking for pensions from the State, without having rendered any real service beyond "withdrawing from the ranks of the enemy," to use the parlance of the past few years.

[The President.]

I say that we redeemed our promises by the provision for an examination that we made of these cases. And I do not think this matter ought to be pressed.

CATHAL O'SHANNON: The President knows that it is not possible to draw exact parallels. Like Deputy Davin, I hold no brief for these men, except I believe that they did render certain services and that those services were considerable by reason of the effect they had on the people with whom they had a contract. I want to remind the Dáil that others withdrew or were dismissed from the employment of those with whom they had somewhat similar contracts, and efforts have been made, and successfully made, to restore them to something like their original status. The President knows that that has not been possible in the case of the ex-R.I.C. men. He ought to know, too, that numbers of them have not been able to get employment. Up to the present they have been living from hand to mouth, subsisting on the charity of their friends and neighbours and those who understand their position. Unlike those who are dismissed or resigned from other services, they cannot re-join any force similar to that in which they were previously engaged. They cannot, for instance, join the Civic Guard. There are many reasons why they are unemployed, although they are men of fine physique. One of the reasons is that it is difficult, unless a man has a letter from General Collins or from a Minister of the first or second Dáil, to persuade the general body of people, who do not look into the nice points of things, that he is not a wolf in sheep's clothing, because the old prejudice against the R.I.C. still prevails.

These are considerations which are not taken into account by the President at all, but they are considerations which count. If they were like Civil Servants in other Departments they would have a chance of restoration, as many of them thought they would have, to a similar position. Most of them—I have not come in contact with them recently, but I did come in contact with them during the period of the resignations and for some time afterwards—had an idea that they would be provided for, not perhaps

by pensions, not to lead an idler's life on the pensions of the State, but that, if the cause for which they thought they were working turned out successfully, they would have a chance of restoration to a post similar to that which they had occupied. They were foolish in that. Their colleagues who had not even the grain of patriotism which drove these men out, and who refused to be persuaded either by the moral suasion of the National movement or by the personal appeal of General Collins, were far wiser children in their generation. They depended on those with whom they made their contract, even if they were beaten, to take good care of their interests. They were looked after and their interests were safeguarded by those who had entered into the contract with them. There was at least a moral contract between the ex-R.I.C. men and the Irish nation, and it is up to the Parliament of the Irish nation to see that that contract is carried out.

The PRESIDENT: To what extent have we failed in that contract? It surely is not put up as a breach of the contract to include persons who resigned after the 11th July, 1921. Is that the breach of contract?

Mr. DAVIN: When I was pressing for an extension of the period beyond the 11th July I had in mind the case of a couple of men who had not resigned from the R.I.C. and were actively co-operating with members of the I.R.A. previous to the Truce, and these men were found to be doing that work, and they were deliberately victimised by the authorities of the R.I.C. I would be prepared to put into the hands of the President or of the Minister for Home Affairs cases of that kind where I could give clear proof to the Government of victimisation, where these men were let down. If the date 11th July is insisted on it will debar from the operations of the clause these particular cases. Some of these were married men, who tried, and tried hard, to get work, and could not get it, and now, under the terms of this clause, they will be deprived of anything for the sacrifices that they made. That was why I was so surprised to find the date was definitely laid down, because I am

aware that the Minister for Home Affairs had personal knowledge of one or two of the cases.

The PRESIDENT: I will undertake, if such cases are proved, and if I return here, to deal with these cases. But I do object to changing the date. If there were genuine cases of victimisation after the 11th July I am prepared to look into them.

Mr. DAVIN: I am prepared to leave these cases in the Minister's hands.

The PRESIDENT: We had a Committee of two officials—one from the Ministry of Finance and one from the Ministry of Home Affairs—with the Chairman a well-known Dublin citizen. There were something like 1,100 cases investigated. Six hundred were passed and five hundred were rejected. Reports were considered, and in certain cases, not all, individual claimants were interviewed. I think, from my experience, that where 1,100 cases were considered, and 600 out of that number passed, that it is a very fair proportion. But if there are such cases as the Deputy states, in which there has been an obvious injustice, I am prepared to consider that afterwards, but I could not make provision for dealing with it now and I think it would be unwise to hold up the Bill for two or three cases when I give that undertaking.

Mr. DAVIN: I am not blaming the Committee that went into these cases, because I realise the terms of reference were such that they could not do anything else. But the case I put is that they should be considered apart from the hard and fast rule as regards the date laid down in the Bill. I accept the Minister's assurance and will give him particulars of the cases, and I am prepared to leave them in his hands.

Mr. JOHNSON: There is nothing in the new section which would make it necessary that cases which did not come within the view of the Minister as acceptable must be pensioned. If the section remains as it is, limiting the date to the 11th July, claims which might turn out to be good claims could not be introduced. Therefore, to give a chance for cases of the kind it would be necessary to alter the date, and the doing so

would not make it inevitable that these persons who resigned and did not come within the scope of the present promise would necessarily receive pensions.

CATHAL O'SHANNON: I urge the point made by Deputy Johnson, because the section is permissive.

The PRESIDENT: It always is in connection with pensions.

CATHAL O'SHANNON: There is no obligation on the Minister to deal with cases after the 11th July, but if he fixes some other date the section would permit him to deal with them. I doubt if the section as it stands would permit him to deal with cases after the 11th July.

The PRESIDENT: As far as I can learn, we have received no letter or communication in regard to any particular grievance outside the terms of reference. The terms of reference have been before them for some time, and no objections have been made. I think it is unreasonable of these men to wait until the Bill is before us to put forward a case like this.

Mr. DAVIN: I do not think that they waited. Their patience has been exhausted.

Mr. JOHNSON: Does the Minister say that he will not agree to any extension even to allow these cases, which he might agree ought to be dealt with, to be brought in? Under the present form they cannot be brought in.

The PRESIDENT: What date do you suggest?

Mr. JOHNSON: I would say three months up to the 1st September.

The PRESIDENT: Then, if we include up to the 1st September, it is to be understood that we are to be confined to three or four cases that the Deputy brought before us.

Mr. DAVIN: Some of the cases are before the Minister for Home Affairs.

Mr. JOHNSON: I really cannot understand why there should be any objection made to the date of the Treaty being accepted, because you are not compelled by this agreement to give pensions to any person. It is all subject to certification in the end by the Minister for Home

[Mr. Johnson.]

Affairs and the Minister for Finance. All we ask is that it be made possible for these Ministers to be satisfied in regard to particular cases, and that being satisfied they will have power to make grants in individual cases. I would ask the President if he is prepared to accept the 6th December, 1921, instead of the 11th July, 1921?

The PRESIDENT: I can only accept that on conditions. The first condition is that no other cases except those mentioned by Deputy Davin are to be introduced. As regards the cases that have already been turned down, I am not, so to speak, going to open the door for them again.

Mr. JOHNSON: As I have pointed out, it is within the option of the two Ministers to consider any particular case.

The PRESIDENT: Very well. I accept the date, 6th December, 1921, on the condition, however, that only these three or four cases mentioned by Deputy Davin are to be considered.

Mr. JOHNSON: The Minister knows that we cannot put any conditions into a Bill.

Amendment to the amendment agreed to.

Amendment, as amended, put and agreed to.

Question put: "That the new Sub-section, as amended, be added to the Bill."

Agreed.

Mr. DUGGAN: In view of the fact that the amendment which has just been accepted enlarges the scope of the Bill, it will necessarily mean that the Title will have to be altered. The proper procedure, I understand, now is to pass over Amendments 7 and 8, and to move Amendment 9. I accordingly move Amendment 9: "To insert in line 10, immediately after the word 'Éireann,' the words 'and to make provision for the payment of pensions, allowance and gratuities to certain former members of the Royal Irish Constabulary.'"

Mr. FITZGIBBON: I suggest that this amendment be made to read: "To authorise the payment of pensions," etc., instead of using the words "to make provision for the payment of pensions," etc.,

because I suggest "to make provision" sounds as if they were going to be compulsory. I understood from the Minister for Finance that in accepting an amendment to the section it was entirely within the option of himself or the Minister for Home Affairs to decide whether those cases should be heard at all or not. The phrase "to make provision" sounds like expressing or indicating that they are to do these things. I understood that the Ministers were to have an option in making grants in such cases, and for that reason I think the amendment should read "to authorise," instead of "to make provision for."

Mr. DUGGAN: There is no objection to the alteration suggested by Deputy FitzGibbon.

Question put: "That the amendment to the Title be altered to read," and to authorise the payment of pensions, etc.

Agreed.

Amendment, as amended, put and agreed to.

THE DAIL RESUMES.

Amendment reported.

Mr. DUGGAN: I beg to move: "That the Dáil agree with the Committee in the amendment of the Title."

Question put and agreed to.

DAIL IN COMMITTEE.

[SECTION 5.]

Mr. O'CONNELL: On Section 5—I desire to ask the President if he would consider the cases I raised on the last stage. There is a question of distribution which I do not think it would be fair to press in view of the urgency of the Bill, and in view of the possibility that the Bill would be held up altogether if an amendment were pressed. There is one matter, however, which I do wish to press, and that is, if it is possible to include under this section the few pensioned teachers who retired before the 1st of April, 1900, and who would get no benefit whatever under the provisions of this Act. I am not sure as to the number of them, but I think they would not be more than a dozen, or 20 at most. They are very urgent cases, and I would be glad to know if the Minister has looked into the matter since the Bill was before us on the Second Reading.

The PRESIDENT: I did not. I wish to know if the Deputy could give me any idea of the pensions paid to these people.

Mr. O'CONNELL: I am not quite certain as to the amount. I think they are not getting more than £20 or £30 a year on an average.

The PRESIDENT: The difficulty I see is that that would alter the terms of the clause altogether, because it brings in new matter. The complaint that was made up to this was that certain penalisation took place through some accident, and we are endeavouring to arrest the disadvantages of the penalisation by this particular section. Now, what Deputy O'Connell suggests would bring in new matter altogether. They are not persons who are affected under the Teachers' Pension Rule, 1914.

Mr. O'CONNELL: That is just the difficulty in the case. What I suggest is that some amendment on these lines should be introduced: "That existing pensioners who retired before the 1st April, 1900, may be deemed for the purposes of the Pensions Increase Act to have been granted pensions under the Irish Teachers' Pensions Rule, 1914."

The PRESIDENT: I am in a difficulty about these cases, first of all because these persons, even if their pensions ran from the year 1900, have got the benefit of the Increase of Pensions Act, 1920.

Mr. O'CONNELL: The people who have got that are the people to whom this Act applies.

The PRESIDENT: There is a difference between them, because this Act gives the benefit of intermediate benefits. I take it that under the Rules of 1914 they are getting the benefit of that now. The point is, if they were not considered in 1914, why should they be considered now?

Mr. O'CONNELL: You are giving these people now by this Act the benefit of the 1914 Rules, because the 1914 Rules apply to all teachers from 1900 onwards. But you are not giving the benefit of the 1914 Rules to the few existing pensioners who retired before 1900. I cannot say definitely whether even half-a-dozen of them are in existence

The PRESIDENT: Or any at all.

Mr. O'CONNELL: Or any of them, but it is quite possible, and highly probable, that there are, and that you are shutting them out. In any case, if there are any they must 83 or 84 years of age now, and it will not be a very big drain and it will not be for very long, I suggest, even if you do include them. You are only giving them the benefit of these Rules from which they were shut out when the 1914 Rules were passed.

The PRESIDENT: I think the Deputy ought to leave over that question, and we will consider it

Mr. O'CONNELL: Will the Minister give an undertaking that he will consider it before the Bill is passed?

The PRESIDENT: Oh, no. I want the Bill passed to-night. I want to remind the Deputy that we have something like 15 Bills on hands. We intend to introduce one, two, or possibly three, here and not to pass them. This particular item is a very small thing. I will look into it and see if anything can be done within the Pensions Scheme as it stands by an order, but I do not think you ought to press me any further. I had not time to consider it since the question was last raised

Mr. O'CONNELL: Would the Minister consider the insertion of a clause which would give him the option of considering it?

The PRESIDENT: I have been warned more than once by our legal advisers not to put in any terminology which a lawyer might not be able to interpret, and that is the danger of this. I think Deputy FitzGibbon will bear me out in that—that it is rather a dangerous thing.

Mr. O'CONNELL: In view of the fact that I believe it will be within the option of the Minister to deal sympathetically with this, apart from this Act, I will not press it, but I do hope that he will bear it in mind.

The PRESIDENT: That will depend on my coming back here, of course. You know that.

Section 5 put and agreed to.

Sections 6, 7, and 8 put and agreed to.

SECTION 9.

(1) This Act may be cited as the Superannuation and Pensions Act, 1923, and Sections 1, 2, 7, 8 and 9 of this Act and the Superannuation Acts 1834 to 1919 may be cited together as the Superannuation Acts, 1834 to 1923.

(2) Sections 1, 2, 7, 8 and 9 of this Act shall be read as one with the Superannuation Acts, 1834 to 1919.

Mr. DUGGAN: I move: "In Subsection (1), line 41, to delete the figures '7, 8, and 9,' and to substitute therefor the figures '8, 9, and 10.'" This is merely altering the numbers of the sections consequential on the introduction of a new section.

Amendment agreed.

Mr. DUGGAN: I move: "In Subsection (2), line 44, to delete the figures '7, 8, and 9,' and to substitute therefor the figures '8, 9, and 10.'" This is a similar amendment.

Amendment agreed.

Section 9, as amended, put and agreed to.

THE TITLE.

The PRESIDENT: think we have amended the Title, but do not think it is passed yet.

Mr. JOHNSON: Before you pass from the Title, I wonder whether the amendment is quite satisfactory. Perhaps Deputy FitzGibbon did not notice it. The Bill was entitled "An Act to make provision for the Superannuation of and Payment of Pensions, Allowances, and Gratuities to or in respect of certain persons in the Service of Saorstát Éireann and to amend and extend the law relating to Superannuation and the Payment of Pensions in Saorstát Éireann." It is a difference in language, but not a difference in effect. In the one case the Act was entitled "To make provision," and in the other was "Authorise the payment of." Is there any valid difference there that would make the Bill unsatisfactory from the legal point of view?

Mr. FITZGIBBON: The new Section inserted, in respect of which the Title was amended, begins, "The Minister for Finance may from time to time by order

authorise a grant of pension." It is because that Section, giving authority to him, was put in that it seems to me that the Title was amended.

Question put: "That the Title, as amended, stand part of the Bill."

Agreed.

THE DAIL RESUMES.

Bill reported to the Dáil.

The PRESIDENT: I move that the Bill be received for final consideration.

Mr. JOHNSON: Might I suggest that the Minister should go through the clauses and wherever he sees the words "Minister of Finance" that he should alter the word "of" to "for," to make it conform with the rest? In some clauses the Minister is described as "the Minister of Finance" and in others as "the Minister for Finance." I understand that the correct form is "Minister for Finance," and there are variations right through the Bill.

Mr. FITZGIBBON: You use both terms in the first Section.

The PRESIDENT: I think we should alter the first one to read "Minister of Finance" instead of "Minister for Finance."

Mr. JOHNSON: "The Minister for Finance" is the official title.

Mr. DARRELL FIGGIS: It was decided once before in early legislation that it should be "Minister for Finance."

Mr. JOHNSON: The Bill was introduced by the Minister for Finance and I move that in all cases where the word "of" appears the word "for" should be substituted when it connects "Minister" and "Finance."

Agreed.

FIFTH STAGE.

Motion made and question put: "That the Bill be received for final consideration."

Agreed.

Motion made and question put: "That the Bill do now pass."

Agreed.

AN LEAS-CHEANN COMHAIRLE:
I certify that this is a money Bill.

DAIL IN COMMITTEE.
DEFENCE FORCES (TEMPORARY PROVISIONS) BILL, 1923.

THIRD STAGE.

Section 1.—This Act may be cited for all purposes as the Defence Forces (Temporary Provisions) Act, 1923.

This Act shall continue in force for one calendar year after the passing thereof and shall then expire.

Mr. DUGGAN: I move amendment 1: "To delete lines 6 and 7 and to substitute the following:—'This Act shall continue in force until other provisions shall have been made by law for the defence of Saorstát Éireann, and shall not in any case continue in force after a period of one year from the date of the passing thereof.' " The amendment is introduced as a result of certain criticisms when the Bill was last before the Dáil, with the intention of meeting them.

Agreed.

Motion made and question put: "That Section 1, as amended, stand part of the Bill."

Agreed.

Section 2 put, and agreed to.

Mr. DARRELL FIGGIS: On Section 3 I would like to ask the Minister for Defence if he would look again and see whether he does not consider that the wording of Sub-section 11 could be a little more carefully defined than it appears to have been. "The expression 'battalion' in the application of this Act to cavalry, artillery, or Engineers shall be construed to mean regiment, brigade, or other body into which the Minister, under the powers conferred on him by this Act, may be pleased to divide such cavalry, artillery, or engineers." Exactly how a battalion can be either a regiment or a brigade, I do not know, but "or other body" is rather an extension of defining what is a fairly well known body in military affairs.

General MULCAHY: The word is taken as a convenience, and will not give rise to any difficulty with regard either to the Act or our own particular regula-

tions. At the present moment the organisation is in a fluid condition, and we find it convenient to be able simply to define any body of whatever kind for different purposes.

Mr. DARRELL FIGGIS: Is it a matter of convenience that a corporal's squad may be called a battalion? That is what the section means.

General MULCAHY: Occasions will not arise in which we will call a body like that a battalion, but occasions will arise in which it will be necessary for us to define a unit, for which we have to find some word, and we find it convenient in accordance with our general organisation to make that word "battalion."

Sections 3 and 4 put and agreed to.

SECTION 5.

"The control of the Forces shall be vested in the Executive Council, subject to the provisions of this Act."

Mr. DUGGAN: I move: "On page 10 to delete the section, lines 34 and 35, and to substitute the following:—

"5.—The command in chief of and all executive and administrative powers in relation to the forces including the power to delegate authority to such persons as may be thought fit shall be vested in the Executive Council, and exercised through and in the name of the Minister who shall not however allocate to himself any executive military command, and who may not be a member of the forces on full pay."

That amendment is also introduced to meet the views expressed by Deputies when the Bill was previously before the Dáil.

AN CEANN COMHAIRLE resumed the Chair at this stage.

Mr. JOHNSON: This amendment helps to meet the criticism that was made, but I am not quite sure that it satisfies the requirements. Perhaps, in the present circumstances, it may be the best way to act, but the association of the words, "Minister for Defence" with "the Commander-in-Chief," seems to me to be still open to the objection. The Commander-in-Chief of any Army, whatever he may be legally, so far as the army is concerned, is considered to be the active head of the army, and, I think

[Mr. Johnson.]

that we ought to attempt to dissociate the two offices much more than is done in this proposal. That the Minister for Defence is a civilian, and a member of the Executive Council, as he probably would be, responsible to the Oireachtas to whom the Commander-in-Chief of the army would be subordinate, is the idea I think that ought to be embodied in any army legislation. While it is probable that, in fact, this new section would accomplish that if we could delete the title, the insertion of the title in the consequent amendments rather spoils the effect of the section. I do not know whether one could imagine the Commander-in-Chief being a person who was prohibited by the Public Safety Act from appearing in uniform, but if he does appear in uniform, immediately he is a military person and not a civilian.

Whatever the effect of the introduction of this section may be in law, the psychological effect upon the army is that no change is taking place, and that as a matter of fact the Commander-in-Chief of the Army is the man who is Minister for Defence. I do not think that that is satisfactory, and I do not think that the amendment meets the requirements of the case. However, I am not attempting to amend this Bill. I think the conditions under which it is introduced rather deprive us of any real value in criticism. But I make that protest against the attempt to associate the military hand with the Minister for Defence.

Mr. DARRELL FIGGIS: I beg to suggest that perhaps Deputy Johnson's point is not quite exactly as he thinks it is. If I understand this amendment correctly the Commander-in-Chiefdom is a personal appointment, and *ipso facto* ceases to exist. The Free State Army, when this amendment is adopted, will become like other armies in which the position of Commander-in-Chiefdom may be delegated *ad hoc*—

Mr. JOHNSON: Read the First Schedule.

Mr. DARRELL FIGGIS: It does say the Commander-in-Chiefdom is vested in the Executive Council. In very few armies in Europe except under active war conditions, and then only for defined areas and for purposes appointed specially, are there Commanders-in-Chief.

It seems to me that the passing of this amendment would mean that such an appointment as a personal appointment ceases and that the Executive Council *ipso facto* becomes the Commander-in-Chiefdom.

Mr. JOHNSON: I may say in my criticisms of this I am connecting the new Section with the amended First Schedule No. 18, and it is the connection of those two that made me utter the criticism I did utter.

General MULCAHY: Portion of the Ministries Bill which will deal with the Ministry of Defence will of necessity be a complement to the Army Act, and the actual state of affairs will be as indicated here in Clause 5. In actual practice and other ways I do not think that Deputy Johnson's objection in this particular matter will be substantiated in

Mr. DARRELL FIGGIS: I would like if the Minister would answer the question I have put. I put to him in categorical form: Does the passing of this amendment mean that the title Commander-in-Chief as a personal title ceases to exist and that the Executive Council becomes Commander-in-Chief and there will be only that Commander-in-Chiefdom and the Minister through which it acts?

General MULCAHY: Under the Ministries Act the Minister for Defence will have associated with him a Defence Council, and the first military member of that Council in ordinary times will be the Chief of Staff. As a military position the position of Commander-in-Chief will cease to exist.

Mr. FITZGIBBON: Unless I presume it is called into existence again under Section 27—"In time of war or internal disorder the Executive Council may place any officer of the Defence Forces in Command of the whole or any portion of those Forces in the field." That is, I presume, the office of Commander-in-Chief will revive?

General MULCAHY: Yes, it will revive as a military position.

Amendment put and agreed to.

Section 5 accordingly deleted.

Motion made and question put: "That the new Section stand part of the Bill."
Agreed.

SECTION 6.

ORGANIZATION OF THE FORCES.

(1) The Forces shall consist of officers who are appointed officers thereof, and of non-commissioned officers and men who are bound to continue service for a term.

(2) Members of the Forces shall serve under such conditions and for such periods and at such rates of pay as may be prescribed.

The PRESIDENT: There is a small amendment necessary there. The Minister agrees with it. It is after the words "as may be prescribed," to add "with the consent of the Minister for Finance."

Amendment put and agreed to.

AN CEANN COMHAIRLE: The word "prescribed" is already defined in Section 3.

Motion made and question put:—"That Section 6, as amended, stand part of the Bill."

Agreed.

Sections 7 and 8 put and agreed to.

SECTION 9.

The following shall be the grades of non-commissioned rank in the Forces:—

(a) Non-commissioned Officers:—

- (1) Sergeant-Major.
- (2) Quartermaster-Sergeant.
- (3) Sergeant.
- (4) Corporal.

(b) Men—

- (5) Private.

Mr. DARRELL FIGGIS: With regard to Section 9, I want to ask a question on what is, perhaps, a small matter. Comparing these non-commissioned ranks with the particulars given in an answer by the Minister to a question put by me on the 23rd March, I find that reference was made there to a Company Sergeant as receiving a certain salary. That rank does not appear here at all. Is it the case that the Sergeant Major is a warrant officer? In that case, is this Sergeant Major the Company Sergeant to which reference is made here?

General MULCAHY: The Sergeant here is a Company Sergeant, and the Sergeant Major would be the Sergeant Major of a battalion.

Mr. DARRELL FIGGIS: In that case he would hardly be a non-commissioned officer; he would be a warrant officer.

General MULCAHY: We are making no provision for warrant officers.

Section 9 agreed to.

SECTION 10.

The Minister may appoint to commissioned rank or temporary commissioned rank in the Forces any person. All commissions shall be in the form specified in the First Schedule hereto, and shall be signed by the Minister.

Mr. DUGGAN: I move Amendment No. 3:—On page 11, to delete the Section, lines 10, 11, 12 and 13, and to substitute the following:—

10.—"The Executive Council may on the nomination of the Minister appoint any person to commissioned rank or temporary commissioned rank in the Forces. All commissions shall be in the form specified in the first schedule hereto and shall be signed by the President of the Executive Council and the Minister."

This amendment is introduced as a result of discussion which took place when the Bill was last before the Dáil.

Mr. DARRELL FIGGIS: Does that mean that the same power remains in the amendment as is in the Bill, that any person who is not now a member of the Army may become a member of it in this way?

General MULCAHY: Yes, with the limitation suggested in the discussion last day.

Amendment agreed to.

Motion made and question put:—"That the new Section stand part of the Bill."

Agreed.

SECTION 11.

The Minister may dismiss or dispense with the services of any Officer, or discharge any other member of the Forces.

Mr. DUGGAN: I move Amendment 4: "On page 11, line 14, to insert before the words 'the Minister' the words 'the Executive Council acting through.'"

Amendment agreed to.

Motion made and question put:—"That Section 11, as amended, stand part of the Bill."

Agreed.

Sections 12 and 13 agreed to.

SECTION 14.

The executive military command and inspection of the forces or any portion thereof may, subject to this Act, be vested in such officer or officers of the Forces as may be appointed by the Minister.

Mr. DUGGAN: I move Amendment No. 5, on page 11, line 29:—"To delete the words 'the Minister' and to substitute the words 'the Executive Council.'"

Amendment agreed to.

Motion made, and Question put: "That Section 14, as amended, stand part of the Bill."

Agreed.

SECTION 15.

All Officers of the Forces shall hold their Commissions during the pleasure of the Minister, but the commission of an Officer shall not be cancelled without the holder thereof being notified in writing of any complaint or charge made, or any action proposed to be taken against him, nor without his being called upon to show cause in relation thereto.

Provided that no such notification shall be necessary in the case of an officer absent from duty without leave for a period of three months or more.

Mr. DUGGAN: I move Amendment No. 6: "On page 11, line 31, to delete the words 'the Minister' and to substitute the words 'the Executive Council.'"

Amendment agreed to.

Motion made and question put: "That Section 15, as amended, stand part of the Bill."

Agreed.

SECTION 16.

The Minister may, notwithstanding anything to the contrary in this Act contained or by regulation prescribed, reward any member of the Forces for distinguished services by appointing him to commissioned rank, or if be an officer, by promoting him to higher rank.

Mr. DUGGAN: I move Amendment 7:—"On page 11, line 39, before the words 'the Minister' to insert the words

'the Executive Council on the recommendation of.'"

Amendment agreed to.

Motion made and question put: "That Section 16, as amended, stand part of the Bill."

Agreed.

Sections 17 to 22, inclusive, put and declared carried.

Mr. JOHNSON: I wish to be taken as dissenting from the provisions of some of these Sections.

Mr. DARRELL FIGGIS: In regard to Section 23, I think we ought to get some information as to the costs of the Military College which is proposed to be set up. In point of fact, I would like to know did the Ministry of Finance make any further inquiries as to what the cost of this institution is likely to be. I would also like to know if it is intended to establish a college during the course of the operations of this Bill when it becomes an Act.

General MULCAHY: I do not hope to get established within the lifetime of this Act an institution that we could point to and say, "This is our Military College," and be proud of it. Of necessity we are making certain arrangements for the higher military education of officers, but it will be an institution of very natural growth; it is very embryonic at present, and its development will be the development of an embryo. I am not able to give any information at all as to what the cost of such an institution would be likely to be. If we are able to set aside half a dozen experienced officers to see after the higher education and higher instruction of our officers any time within the next twelve months, I will be very happy, and our Military College will be something of those dimensions by the time a permanent Bill comes before the Dáil.

Sections 23 to 109, inclusive, agreed to.

SECTION 110.

(1) Where it appears on the trial by courtmartial of a person charged with an offence that such person is by reason of insanity unfit to stand his trial, the Court shall specially find that fact and such person shall be kept in custody in the prescribed manner until the directions of the Minister thereon are known or until

any earlier time at which such person is fit to take his trial.

(2) The Minister may give orders for the safe custody of such persons during his pleasure in such manner as he may think fit.

(3) A finding under this section shall be subject to confirmation in like manner as any other finding as is hereinafter provided.

Mr. FITZGERALD (for Mr. Duggan): I move Amendment 8:—"On page 37, line 48, immediately after (1) insert (a); in line 55, delete (2) and substitute (b); in line 57, delete (3) and substitute (c); in line 60, delete 111 and substitute (2)."

Amendment agreed to.

Motion made and question put: "That Section 110, as amended, stand part of the Bill."

Agreed.

Sections 111 to 124, inclusive, put and agreed to.

SECTION 125 (POWER TO MINISTER TO MAKE RULES OF PROCEDURE).

Mr. DUGGAN: I beg to move Amendment No. 9:—"To add a new sub-section: 'The Rules Publication Act, 1893, shall not apply to rules made under this section.'"

General MULCAHY: The procedure is that rules will have to be placed before Parliament for forty days. In this temporary Act which we are framing the regulations will have to be brought into operation immediately, and the effect of this new Sub-section would be that these would come into force immediately without having to wait for the period of forty days.

Amendment agreed to.

Motion made and question put: "That Section 125, as amended, stand part of the Bill."

Agreed.

Sections 126 to 143, inclusive, agreed to.

SECTION 144 (ENLISTMENT PERIOD OF SERVICE).

Mr. DARRELL FIGGIS: I had been expecting an official amendment here in response to the pledge given by the Minister on Second Reading. He said then he was prepared to have an enlistment period of 18 months, with two years in the Reserve. I had been expecting

an amendment carrying out that pledge, but I do not see it here. The time served in all Armies is very short nowadays, and the expenses consequently small. I will not go into any argument now, but it is to be regretted that the Minister, having given a pledge, did not bring forward his amendment, and I suggest that he should move it now.

General MULCAHY: I made a statement that it was not our intention to have recruiting for a long period. I also made the statement, even if we had this Bill before us as a Bill and even if we intended to make provision by which men could be enlisted for twelve years, it was not our intention to enlist men for such long periods; but we left the clause as one that gave us a certain amount of latitude, and we thought it advisable to have it in at the present time. I do not intend to change it now, and I do not think that I gave the impression that I did. I simply made the statement of what our intention was, but actually I could not agree to a reduction to such a figure as that. At the present moment we will begin recruiting for our bands, where the men will be given a very systematic course of musical training, and our intention would be that men more or less permanently recruited for bands would be recruited for a period of not less than five years. You cannot take a man into a school of music and start him on systematic work and have him leave the Army or the band in 18 months or two years, at a time when he would just be beginning to be of some use to us. Then, again, if we made the change from 12 years now there would have to be a number of consequential changes throughout the Bill, and I think the simplest thing is to leave the matter undisturbed in this temporary Bill, knowing what our definite and clear intention is, and that there is no likelihood of any number of men or of any men being recruited for 12 years. It was simply a matter of convenience and of not making a change in a temporary Bill which would involve quite a number of changes. If we did put in five years there might be a tendency on our part to recruit men for five years, and we do not want to do that, so I think it was much better for all parties to leave that part of the Bill as it is.

Mr. DARRELL FIGGIS: This rather raises a question that we had once or

[Mr. Darrell Figgis.]

twice before. I do not propose to argue the case the Minister presented, but for those who require some kind of technical training I think some form of words could be found. With regard to soldiers, any pledge given by the Minister is not binding on any person who may succeed him. It is not even binding upon himself. If circumstances, in his judgment, require some variation of it, this Dáil could not recognise a pledge of that kind. The right procedure is that pledges given and which were sincerely meant and called for, should be embodied in the legislation which is being passed and to which they relate. If the Minister's intention is to recruit for eighteen months, with a subsequent period of two years in the Reserve, such as he distinctly stated here on the occasion of the Second Reading, then I think that the pledge ought to be put into the Bill and made binding legislatively. I go further and say that I asked him definitely upon this matter, would he put his pledge in regard to recruiting into the Bill, and he replied to me definitely that it was going into the text of the Bill.

General MULCAHY: I wish to create no wrong impression. I may have agreed, but I cannot conceive that I made a statement that I would change any of the clauses in regard to enlistment. I only had that in my mind. I was not thinking of doing a certain amount of re-drafting, and that would have to be done if the period was changed in this Clause, because other clauses hang upon it. I said what our intentions were, and even if our intentions were not definite as between enlistment for eighteen months and two years for the reserve, I pointed out to the Deputy that he need not press his point, because the Bill was purely temporary. Even if we did enlist for a period of twelve years, there would be nothing to prevent those persons having their period of service terminated at any *particular time* by any subsequent Government.

Mr. DARRELL FIGGIS: I do not want to press this matter unduly, but I urged and suggested to the Minister that in consonance with Section 1 as amended and adopted by this Dáil the clauses in this Chapter 5, under the head of

Enlistment, could also be altered in consonance with the alteration of Section 1.

Mr. FITZGIBBON: I raised this point originally. I went into the matter fully, and I find that it would be absolutely impossible to amend the Bill in the time at our disposal so as to preclude the Minister, if he thought fit, setting up military colleges for recruiting an unlimited number of men for a period of twelve years. But I came to the conclusion, having regard to the specific statement the Minister made of his policy and the policy of the members of the Executive Council that we might rely upon it that after the period of twelve months this Bill will have to come before the then Dáil for renewal, and I think the Minister will find that if he is confronted with a definite bargain definitely broken, that it would go very hard with him in the Dáil. I do not anticipate myself that any such thing will occur. I think he regards this, and the Government and the Executive Council regard it, as a definite, specific bargain entered into in specific circumstances, and they will not confront the new Assembly with a standing Army as a *fait accompli*. I think it would be far safer to rely on the promises that have been given than to endeavour now to accomplish the impossible task of trying to tinker with this Bill. The only effect in trying to do that would be to defeat the whole object of the Ministry in producing this Bill at all in order to try and regularise things in the time at their disposal. We never could get through all the clauses in the time at our disposal or draft amendments, and therefore we are bound to take the Bill as a whole on the pledge given by the Minister, and not to try to amend Chapter 5, or other clauses, because we would only find we had reduced the whole thing to a state of chaos.

Mr. DARRELL FIGGIS: I quite appreciate the matter, and, as I said, I do not intend to press it, because I dealt with it on Second Reading, and received a *certain intimation* which I construed in a certain way, and which left a clear impression upon my mind that amendments would be introduced. I am satisfied merely to draw attention to the matter now.

Section 144 put and agreed to.

Section 145 to 155 agreed to.

SECTION 156.

(In imminent national danger, the Executive Council may continue soldiers in Army Service or call out the Reserve on permanent service.)

Mr. DUGGAN: I beg to move an amendment in Section 156, page 53, Sub-section (3), lines 41 and 42, to delete from the word "under" to the end of the sub-section, and insert the words, "this Act relating to the Reserve."

Amendment agreed to.

Motion made and question put: "That Section 156, as amended, stand part of the Bill."

Agreed.

Section 157 agreed to.

SECTION 158.

(Delivery of lunatic soldier on discharge with his wife and child at workhouse, or of dangerous lunatic at asylum.)

Mr. DUGGAN: I beg to move Amendment 10: "In Sub-section (3) to delete lines 34 and 35, and to substitute the following:—" Section of the Statute passed by the Parliament of the late United Kingdom, 30 and 31 Vic., Cap. 118, intituled."

Amendment agreed to.

Motion made and question put: "That Section 158, as amended, stand part of the Bill."

Agreed.

Sections 159 to 219, inclusive, agreed to.

SECTION 220.

(Calling out the Reserve on a permanent service.)

Mr. DUGGAN: I move Amendment 12: "On page 78, Sub-section (1), line 22, to delete the word 'forces' and to substitute the word 'Reserve.'"

Amendment agreed to.

Mr. DUGGAN: I move Amendment 13: "In Sub-section (4), line 35, to substitute the word "fifty-five" for "fifty-six." It is merely a clerical error.

Amendment agreed to.

Motion made and question put: "That Section 220, as amended, stand part of the Bill."

Agreed.

Sections 221 to 232, inclusive, agreed to.

PART 4.

(Transitory Provisions.)

Sections 233 and 234 agreed to.

SECTION 235.

The command-in-chief of and all executive and administrative powers in relation to the National Forces (including the power to delegate authority to such persons as he shall think fit) shall be vested in the Minister.

Mr. DUGGAN: I move: "To delete the section and to substitute the following:—

235.—The command-in-chief of and all executive and administrative powers in relation to the National Forces (including the power to delegate authority to such persons as may be thought fit) shall be vested in the Executive Council and exercised through and in the name of the Minister.'"

That amendment is in consonance with the principle involved in an amendment already accepted.

Amendment agreed to.

Motion made and question put: "That the new Section stand part of the Bill."

Agreed.

Sections 236, 237 and 238 put and agreed to.

SECTION 239.

(All officers now serving in the National Forces shall continue to hold their appointments as such during the pleasure of the Minister.)

Mr. DUGGAN: I move: "To delete the words 'the Minister' and to substitute the words 'the Executive Council.'"

AN CEANN COMHAIRLE: This is consequential.

Amendment agreed to.

Motion made and question put: "That Section 239, as amended, stand part of the Bill."

Agreed.

SECTION 240.

(The Minister may dismiss or dispense with the services of any officer of the National Forces, or discharge any soldier of the National Forces.)

Mr. DUGGAN: I move: "Before the words 'The Minister' to insert the words 'The Executive Council acting through.'" That is also consequential.

Mr. DARRELL FIGGIS: I would like to ask in that connection if there is any protection in this clause making it necessary that some adequate cause should be shown for such dismissal? It reads rather peremptory as it stands.

General MULCAHY: Section 15 provides that "the commission of an officer shall not be cancelled without the holder thereof being notified in writing of any complaint or charge made or any action proposed to be taken against him, nor without his being called upon to show cause in relation thereto."

Amendment agreed to.

Motion made and question put: "That Section 240, as amended, stand part of the Bill."

Agreed.

Sections 241, 242 and 243 put and agreed to.

SECTION 244.

(The Minister may make regulations relating to all matters which are by this Part of this Act required or permitted to be prescribed or which are necessary or convenient to be prescribed for securing the good government of the National Forces, or for carrying out and giving effect to the provisions of this Part of this Act.)

Mr. DUGGAN: I move: "To add a sub-section as follows:—

'(2) The Rules Publication Act, 1893, shall not apply to regulations made under this section.'"

That amendment is identical with one already accepted.

Amendment agreed to.

Motion made and question: "That

Section 244, as amended, stand part of the Bill, put, and agreed to.

Section 245 put and agreed to.

FIRST SCHEDULE.

Form of Commission to an Officer.

SAORSTAT ÉIREANN.
OGLAIGH na hÉIREANN.

KNOW ALL MEN BY THESE PRESENTS that trusting in your loyalty to our country and reposing special confidence in your courage, honour, good conduct and intelligence, I

Minister for Defence, in exercise of the powers in that behalf vested in me by the Defence Forces (Temporary Provisions) Act, 1923, do hereby constitute and appoint you to be an officer in OGLAIGH na hÉIREANN as from the day of 19 .

You will bear true faith and allegiance to our country and serve and defend her against all her enemies whomsoever. You will discharge your duty in the rank of or in such higher rank as your merit may hereinafter determine your appointment or promotion to, which appointment or promotion will be notified in the *Iris Oifigiúil*. You will exercise and train in arms and maintain in good order and discipline the soldiers and inferior officers serving under you, who are hereby each and all enjoined and commanded to render you obedience as their superior officer. You will yourself observe and obey without question such orders and directions as you shall from time to time receive from the Minister for Defence for the time being or from any of your superior officers according to law.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my seal at this day of in the year of Our Lord one thousand nine hundred and

Commander-in-Chief and Minister for Defence.

Mr. DUGGAN: I move:—

Form of Commission to an Officer.

To delete the form and to substitute therefor the following:—

To (Name of Officer)

,
trusting in your loyalty to our country, and reposing special confidence in your

courage, honour, good conduct and intelligence, the Executive Council of Saorstát Éireann, in exercise of the powers in that behalf conferred by the Defence Forces (Temporary Provisions) Act, 1923, hereby constitutes and appoints you to be an officer in OGLAIGH na hÉIREANN as from the day of 19 . You will bear true faith and allegiance to our country and serve and defend her against all her enemies whomsoever. You will discharge your duty in the rank of , or in any higher rank to which your merit may hereafter determine your appointment or promotion, which appointment or promotion will be notified in the *Iris Oifigiúil*. You will exercise and train in arms and maintain in good order and discipline the soldiers and inferior officers serving under you, who are hereby each and all enjoined and commanded to render you obedience as their superior officer. You will yourself observe and obey, without question, such orders and directions as you shall from time to time receive from the Minister for Defence, for the time being, or from any of your superior officers according to law.

IN WITNESS WHEREOF WE have hereunto set our respective hands and seals at this day of in the year one thousand nine hundred and .

Signed,

President of Executive Council of Saorstát Éireann.

Minister for Defence, Commander-in-Chief.

Mr. ALTON: Should not "Commander-in-Chief be omitted there also?"

Mr. JOHNSON: I was going to raise that point. If the points that were made in favour of Amendment No. 2 are valid, then the last three words in the Schedule ought to be deleted. There is no good reason given as to why they should remain in, and I think there are many good reasons why they should be deleted.

General MULCAHY: The Ministries' Bill is a complement of the Army Bill, and in order to run properly complementary with it, it is necessary that in the issuing of Commissions "Minister for Defence, Commander-in-Chief" would appear.

Mr. DARREL FIGGIS: But the amendments which have just been passed substitute "Executive Council, the Commander-in-Chief, operating through the Minister." How, then, can the Minister say "Commander-in-Chief" if we have passed very necessary and excellent amendments by which the command-in-chief is vested in the Executive Council and the Executive Council becomes the command-in-chief?

Mr. JOHNSON: The Minister speaks of the Ministries' Bill, but we have not seen it. It is still in embryo, and I do not think we can refer any defence of this Bill to a Bill which is not yet an Act of Parliament. If the commission is to be issued by the President of the Executive Council and the Minister for Defence, surely that is sufficient for the commission. It is these two civil Ministers that are satisfied with the loyalty and courage of the officer, and the connection of the Minister for Defence with the Commander-in-Chief makes the commission a personal one, and personal from the Commander-in-Chief. As I said earlier, you cannot dissociate in the minds of the men who constitute the Army the term "Commander-in-Chief" from a military officer in fact. The section that we have passed and which Deputy Figgis has referred to does not seem consistent with this title, unless we are to read into Section 5 something which we are assured is not here. If the Executive Council, acting through a Minister, is the body which has the chief command of the Army, then the Executive Council, in the name of the President and the Minister for Defence, should be the authority to issue the commission, and the Act should be left to say that the Minister for Defence is the Minister through whom the Executive Council exercise the chief command. I would press the Minister to agree to the deletion of these three words.

Mr. DARRELL FIGGIS: I think the Minister did definitely state at an earlier stage, when I was answering the point the Deputy Johnson made with regard to an earlier amendment to Section 5, that the Commander-in-Chief as a personal appointment would lapse, although it might be revived for some special occasion or emergency, but that it would be an appointment *ad hoc*. If it lapses, why is it here?

General MULCAHY: What I said was that the position of Commander-in-Chief as a military appointment will lapse, and that the proposal is that the Minister for Defence will preside over the Executive Council and will hold the titular title of Commander-in-Chief as well as Minister for Defence.

Mr. DARRELL FIGGIS: It is not consistent with what we have already done this afternoon. That is all I suggest. Take Amendment 14, which is the first one that comes to my mind, to delete a section and substitute a new section to 235, providing that "the Commander-in-Chief of and all executive and administrative powers in relation to the National forces shall be vested in the Executive Council and exercised through and in the name of the Minister for Defence." There are two distinct persons there—there is one person which is the Executive Council, which is the Commander-in-Chief, and the second person which is the Minister through which the Commander-in-Chief as a body operates. Having done that, we pass a schedule in which, having separated the two, we merge them again.

The PRESIDENT: The Minister for Defence will be the Commander-in-Chief, as stipulated in Amendment 14.

Mr. DARRELL FIGGIS: I did not hear the President's soliloquy.

AN CEANN COMHAIRLE: The point made by Deputy Figgis is that Amendment 14 makes the word "Commander-in-Chief" impossible, and the President's point is that the words "Commander-in-Chief" were inserted because of Amendment 14.

Mr. DARRELL FIGGIS: That is an antique form of argument which is not very convincing. I think I have heard that phrase before.

Motion made and question put: "That the First Schedule be deleted and the new form inserted."

Agreed.

Motion made and question put: "That the new form stand part of the Bill."

Agreed.

SECOND SCHEDULE.

Form of Oath or Declaration to be taken or made under Section 22 of the Act.

I do solemnly swear (or declare) that I have this day freely and voluntarily enlisted as a soldier in Ogluigh na hEireann; that I will faithfully serve as such for the period of

day of 19 (unless sooner discharged by proper authority) and under the conditions prescribed in accordance with law; and I will accept such pay, bounty, rations and clothing as may from time to time be prescribed in accordance with law.

And I further solemnly swear (or declare) that I will bear true faith and allegiance to our country and faithfully serve and defend her against all her enemies whomsoever and that I will submit myself to discipline, and obey without question the orders of the officers appointed over me according to law.

Signature.

Sworn (Declared) before me this day of 19 at

Signature of District Justice or Peace Commissioner attesting.

Mr. DARRELL FIGGIS: With regard to the Second Schedule I would like to draw the Minister's attention to a rather odd difference between this form of oath, or declaration, and the form of oath, or declaration, to be taken by another body with which we were to have been concerned this afternoon, and that is the Civic Guard. I will read the last words of their declaration, or oath, for I think they make a suitable addition to the declaration, or oath:—"I will to the best of my knowledge discharge all my duties thereof faithfully according to law, and that I do not now belong, and I will not, while I hold the said office, join, belong or subscribe to any political society whatsoever, or to any secret society whatsoever." That is very necessary in the Civic Guard, and I think it would do no harm in the Army. Would the Minister be prepared to add these words to the Army declaration so as to bring it into conformity with the Civic Guard declaration?

General MULCAHY: I do not think that it would be necessary to do so.

Motion made and question put: "That the Second Schedule stand part of the Bill."

Agreed.

The Third, Fourth, Fifth, Sixth, Seventh and Eighth Schedules put and agreed to.

THE PREAMBLE.

WHEREAS it is provided by Article 46 of the Constitution that the Oireachtas has the exclusive right to regulate the raising and maintaining of such armed forces as are therein referred to, and that every such armed force shall be subject to the control of the Oireachtas.

AND WHEREAS it is adjudged necessary by the Oireachtas that a body of armed forces should be raised for the defence of Saorstát Éireann.

AND WHEREAS it is provided by Article 70 of the Constitution that no one shall be tried save in due course by law and extraordinary Courts shall not be established, save only such military tribunals as may be authorised by law for dealing with military offenders against military law.

AND WHEREAS it is provided by Article 71 of the Constitution that a member of the armed forces of Saorstát Éireann not on active service shall not be tried by any courtmartial or other military tribunal for an offence cognisable by the Civil Courts, unless such offences shall have been brought expressly within the jurisdiction of courtmartial or other military tribunal by any code of laws or regulations for the enforcement of military discipline which might be thereafter approved by the Oireachtas.

AND WHEREAS it is necessary to provide a code of laws or regulations for the enforcement of military discipline in the armed forces of Saorstát Éireann to be raised under this Act.

Mr. DUGGAN: I move Amendment 19: "In the Preamble to delete the second recital, page 7, lines 14, 15 and 16." The amendment is introduced because of certain criticisms of points of view raised by Deputy FitzGibbon, and possibly some others, when the Bill was last before the Dáil.

Mr. FITZGIBBON: As the Deputy

has said, the amendment embodies verbatim the promise the Minister made when he was moving the Bill.

Amendment agreed to.

Mr. DUGGAN: I move Amendment 20: "In the fourth recital, page 7, line 26, to delete the word 'offences' and substitute the word 'offence'; to delete the word 'courtmartial,' line 27, and to substitute the words 'courts martial.'" That is merely the correction of a clerical error.

Amendment agreed to.

Mr. DUGGAN: I move Amendment 21: "In the fifth recital to delete lines 30, 31 and 32 on page 7 and substitute the following recital:—'And whereas it is a matter of urgent necessity to provide a code of laws and regulations for the enforcement of military discipline in the existing armed forces of Saorstát Éireann and such other armed forces as may be raised under this Act,'"

Amendment agreed to.

Motion made and question put: "That the Preamble, as amended, be the Preamble to the Bill."

Agreed.

THE TITLE.

An Act to provide for the defence of Saorstát Éireann and other matters incidental thereto.

Mr. DUGGAN: I move Amendment 22: "To delete the Title of the Bill and to substitute therefor the following Title:—AN ACT to make temporary provisions in relation to the defence of Saorstát Éireann and other matters incidental thereto."

Agreed.

THE DAIL RESUMES.

The Bill, as amended, reported to the Dáil. The Fourth Stage ordered for Tuesday, the 31st July.

DAIL IN COMMITTEE.

DAIL ÉIREANN COURTS (WINDING UP) BILL, 1923.

SECTION 1.

Mr. GAVAN DUFFY: I desire to ask the Minister if he would be good enough

[Mr. Gavan Duffy.]

to consider the definition of Dáil Court in order to make it clear that that definition includes Land Commission Court. The matter arises in this way. I am aware that most of the Land Commission Court decrees have been carried out or dealt with by assignment. The Minister so informed me in reply to a question. There are still a few cases outstanding which have not been dealt with by assignment. In addition to that, however, there is a class of case which has probably escaped the attention of the Minister, and that is the numerous cases arising out of the Bolshevism in the West, a matter in which the First Dáil, and in particular the Land Commission Court of the First Dáil, proved signally successful. A good many decrees were given for damages, very well deserved. The people who went to the County Court under the English system got their damages and got paid, whereas the people who went to our Courts are still waiting for their money. I do not know how far that is general, but I know one solicitor who has six or seven of those cases in which damages were awarded. On account of the suppression of the Dáil Courts he has been unable to get his money. I think that solicitor has sent particulars to the Minister. I would ask the Minister, if there be no objection, to include Land Commission Courts in the expression "Dáil Court." In that connection I may refer the Minister to the official account of the First Dáil, in which he will find the matter of the Land Commission dealt with. In the report for August, 1920, at page 199, it is set out that it was decided to set up a Commission, subject to the report of a Special Committee, and at page 232 it is stated the Special Committee having reported favourably, the Land Commission Bill was passed. It is not quite clear whether the Land Commission Courts sat under that decree, or sat under a decree of the Minister for Home Affairs. I rather gather, from what is reported in the debates, that the Land Courts sat before the Commission was established, in which case they are also included in that definition. As there are quite a number of people who are entitled to get paid damages awarded to them in very proper circumstances, I would ask the Minister if he has no objection, to put in words which will give those the benefit of de-

crees in the same way as if they had been got under some other Court established by the Dáil.

Mr. O'HIGGINS: I am advised that the affairs of the Land Settlement Courts cannot be dealt with in this Bill. When the Bill was in process of preparation my Ministry asked the Ministry of Agriculture whether it was advisable to deal with the affairs of the Land Courts in this Bill, and in all the circumstances they considered it was not advisable. My feeling in the matter is that I ought not to break the Eleventh Commandment: "Thou shalt not butt in." I shall leave it to the Minister for Agriculture, if he thinks a Bill is necessary, to introduce such a Bill himself.

Motion made and question put: "That Section 1 stand part of the Bill."

Agreed.

Sections 2, 3, and 4 put and agreed to.

SECTION 5.

(1) Any person who claims to be aggrieved by any registered decree of a Dáil Court, and who was a party to the proceedings in which such decree was made, or is otherwise bound by such decree, may appeal within the prescribed time and in the prescribed manner from such decree to the Commissioners, and thereupon the Commissioners shall hear and determine such appeal.

(2) Any person entitled to enforce any registered decree of a Dáil Court in respect of which no appeal is brought under this section may, after the expiration of the prescribed time for bringing such appeal, obtain, as of course, from the Commissioners a warrant for the execution of such decree.

(3) No decree of a Dáil Court shall be of any force or effect or be capable of being sued upon or enforced before or by the Commissioners or any other Court or otherwise howsoever unless such decree is duly registered under this Act.

(4) No registered decree of a Dáil Court shall be capable of being sued upon or enforced before or by any Court or otherwise howsoever save by such proceedings or other steps as are authorised by this Act.

Mr. DUGGAN: I move Amendment 1:—"In Sub-section (1), line 42, to insert immediately after the words 'Dáil Court' the words 'other than the Dáil

Supreme Court,' and at line 47 to insert immediately after Sub-section (1) a new Sub-section as follows:—

"(2) Any person who claims to be aggrieved by any registered decree of a Dáil Supreme Court, and who was a party to the proceedings in which such decree was made, or is otherwise bound by such decree, may apply within the prescribed time, and in the prescribed manner, to the Commissioners for leave to appeal to the Commissioners from such decree, and in the event of such leave being granted, such person may appeal within the prescribed time, and in the prescribed manner, to the Commissioners from such decree, and thereupon the Commissioners shall hear and determine such appeal."

The Section gives the right of appeal to the Commissioners. The object of the amendment is to provide, in the case of a decision by a Dáil Supreme Court, an appeal by special leave of the Commissioners. The Supreme Court was a Court constituted of lawyers, and it is not therefore considered right that, as a matter of course, there should be an appeal from that.

Amendment put and agreed to.

Mr. GAVAN DUFFY: In Sub-section 4 of this section I desire to call attention to a fact which I think has escaped observation in the drafting of this Bill. Sub-section 4 provides that no registered decree of a Dáil Court shall be capable of being sued upon or enforced before or by any Court except as authorised by this Act. I speak under correction, but I am under the impression that the effect of that statement, as it stands, would be to prevent a setting up of a Dáil decree duly registered as a set-off or a counter-claim in any proceedings in the other Courts. Supposing you have a judgment of the Dáil Court for £100 in your favour and the defendant brings an action against you, not having paid that £100, surely you ought to be able to set up in defence *pro tanto* the fact that he owes you £100 as certified by the Dáil Court. I think that Sub-section 4, when it refers to the steps authorised by this Act, contemplates Section 19, which deals with the enforcement of Commissioners' Orders and Dáil Court Decrees, and provides that those Orders and Decrees are to be enforced by the Under-Sheriff

in the usual way. I am inclined to think that nowhere is there any provision which, in face of Sub-section 4, would enable one to set up in the other Court a Decree which one had duly obtained and registered in the Dáil Court. I do not think that that is intended. I would ask that that be amended in the Report Stage, if I am right in my premises.

Mr. O'HIGGINS: The point the Deputy raises is new, and I am not in a position to deal with it at the moment. I will undertake to look into it between now and the Report Stage.

Motion made and question put: "That Section 5, as amended, stand part of the Bill."

Agreed.

Sections 6 to 19, inclusive, put and agreed to.

SECTION 20.

(1) For the purposes of this Act the Commissioners shall have full power and jurisdiction to hear and determine all matters, whether of law or fact, which shall be duly brought before them under this Act, and shall not be subject to be restrained in the execution of their powers under this Act by the order of any Court, nor shall any proceedings before them be removed by *certiorari* into any Court.

(2) The Commissioners with respect to the following matters, that is to say,

- (a) Enforcing the attendance of witnesses (after a tender of their expenses), the examination of witnesses orally or by affidavit, and the production of deeds, books, papers, and documents; and
- (b) Issuing any commission for the examination of witnesses; and
- (c) Punishing persons refusing to give evidence or to produce documents, or guilty of contempt in the presence of the Commissioners or any of them sitting in open Court;

shall have all such powers, rights and privileges as are vested in the High Court for such or the like purposes, and all proceedings before the Commissioners shall in law be deemed to be judicial proceedings before a Court of Record.

Mr. DUGGAN: I move in Sub-section 1 to insert the word "other" immediately after the word "Court" in line 31 and in line 32.

[Mr. Duggan.]

It is merely a drafting amendment. The Commissioners are themselves a Court. Any reference to other Courts in the section should describe them as other Courts.

Amendment put and agreed to.

Mr. GAVAN DUFFY: On Section 20, I should like to ask is there any provision making it clear that the Commissioners can award costs. I think that is rather a serious lacuna in the Bill. Section 20 deals with the general powers of the Commissioners. It gives them power "to hear and determine," and then it gives them certain specific powers. I do not think it can be said that the power to award costs is given by Section 20. I do not think myself that it is implied by Section 20. If one looks at Section 4 one sees the phrase "the Commissioners shall hear and determine," and that same phrase is used in subsequent sections. When the matter comes before the Commissioners they are told they are "to hear and determine." I have failed to find in the Act any further powers which would enable them to give costs in these matters.

I think it will be obvious to anyone that it is very important that the Commissioners should have power to give costs, which very often will be a considerable item to a person who has suffered. I cannot help thinking that if that power is not given in the Act it must be an oversight. It is, I think, intended that it should be given. I think the Minister will see that it is necessary if it is his desire—as I think it must be—that the Commissioners and Assistant Commissioners should have the ordinary powers of a Judge to award costs, that express words to that effect should be put into Section 20.

Mr. O'HIGGINS: Would it not come under Section 22?

Mr. GAVAN DUFFY: I think that only deals with Court fees. It may be noticed in Section 21, where the Commissioners are directed to make and publish rules, that there is no specific mention of a rule as to costs. I cannot help thinking the matter has been forgotten.

Mr. O'HIGGINS: The matter will be looked into.

Mr. GAVAN DUFFY: I take it it is

the intention of the Ministry that the Commissioners shall have power to award costs?

Mr. O'HIGGINS: It is the intention. As far as I can see there is an omission, except the fact that the Commissioners, being themselves a Court, the power of awarding costs might be deemed to be inherent in them. The closing words of the section are considered to cover the point: "All proceedings before the Commissioners shall, in law, be deemed to be judicial proceedings before a Court of Record."

Mr. GAVAN DUFFY: May I point out that that particular sub-section deals only with special matters, although the last words may be intended to be general? I hope the Minister will put in a specific clause dealing with the power to award costs.

Motion made and question put: "That Section 20, as amended, stand part of the Bill."

Agreed.

Section 21 agreed to.

SECTION 22.

There shall be charged by the Commissioners in respect of proceedings brought before them or before an Assistant Commissioner under this Act, and in respect of acts done by them or any of their officers or by an Assistant Commissioner or by the Registrar or the Accountant in the execution of their respective duties under this Act, such fees as shall from time to time be prescribed by the Minister for Home Affairs on the recommendation of the Commissioners and with the sanction of the Minister for Finance.

Mr. DUGGAN: I move Amendment 1: To insert immediately after the word "prescribed" in line 13 the words "by orders made," and to add a new sub-section as follows:—

"(2) Orders made under this section may (notwithstanding anything contained in the Public Offices Fees Act, 1879) regulate the method and manner of collecting and accounting for the fees prescribed by such orders."

It is intended that the fees to be charged by the Commissioners shall go into the Dáil Courts Fund, and not into the Exchequer. It is for that reason it is necessary to put in that proviso.

Amendment agreed to.

Motion made and question put: "That Section 22, as amended, stand part of the Bill."

Agreed.

Sections 23, 24, and 25 agreed to.

SECTION 26.

(1) No action or other legal proceeding, whether civil or criminal, shall be brought in any Court of Law or Equity against

(a) any Judge or officer of any Dáil Court, for or on account of or in respect of any act, matter or thing duly done by him in the course of his duty as such Judge or officer, or

(b) any person, whether he was or was not an officer of a Dáil Court, for or on account of or in respect of any act, matter or thing done or omitted to be done by him under the authority or in pursuance of any decree constituting or regulating the Dáil Courts or under the authority or in pursuance of any decree of a Dáil Court or any order or direction of a Judge of any such Court, or

(c) any officer of any Court other than a Dáil Court for or on account of or in respect of his having refrained before the passing of this Act from doing any act, matter or thing which it was his duty as an officer to do, and which he refrained from doing *bona fide* on the ground that the doing of such act, matter or thing was contrary to or in conflict with or prejudicial to the enforcement of a decree of a Dáil Court.

(2) If any such action or other legal proceeding as is mentioned in the foregoing sub-section was instituted before the passing of this Act and is now pending, the same shall be discharged and made void, subject to such order as to costs as the Court in which such action or proceeding is pending, or a Judge thereof, shall think fit to make.

Mr. DUGGAN: I move Amendment 5: "To insert immediately before Section 26 a new section as follows:—

(1) In any case in which a judgment, decree, or order was on or after the 1st day of August, 1920, given or made by any Court against any person in his absence, and it shall be proved to the

satisfaction of such Court or, in the case of a decree of a Dáil Court, to the satisfaction of the Commissioners, that such person had a good defence or answer to the making of such judgment, decree, or order, but refrained from appearing at and opposing the making of such judgment, decree, or order because of an objection on principle to submit to the jurisdiction of that Court, such Court or the Commissioners, as the case may be, may, upon such terms or conditions, if any, as shall appear just, allow the proceedings in which such judgment, decree, or order was made or given to be reopened for the purpose of allowing such person to make his defence or answer, and may direct any necessary re-hearing or new trial, and may rescind, vary or amend any such judgment, decree or order, and may give or make any other judgment, decree or order, with the addition of any requisite ancillary or consequential order as the justice of the case shall require

(2) The rights and powers given by the foregoing sub-section in respect of a decree of a Dáil Court are in addition to, and not in substitution for, any right or power given by any other section of this Act."

This new section is proposed to be inserted in order to meet the cases of persons who were sued in the old British Courts, and who, for patriotic reasons, declined to attend or defend the proceedings, judgment being given against them in their absence. It is also intended to apply to persons who were sued in the Dáil Courts, and who refused, for political reasons, to appear in those Courts.

AN CEANN COMHAIRLE: This amendment is, I think, relevant to the subject-matter of the Bill; but, if carried, it will involve a change in the title.

Mr. GAVAN DUFFY: May I ask whether the application for re-hearing is intended to be made *ex parte*? It would be well to make that clear. I would suggest also that the Minister might agree to the addition of certain words limiting the time within which the provisions of this section may be put in force by any particular applicant, as is done in another section of the Bill. It is obviously undesirable that a matter of this kind should be left open, giving people power

[Mr. Gavin Duffy.]

to get a re-hearing at any time. I would suggest to insert, after the words "to the satisfaction of the Commissioners," the words "upon an application made within the prescribed time." That is the form adopted in another section of the Bill. You limit the time within which a person may apply, and by adding in in the fifth line of the amendment the words I have suggested, you will make certain that people cannot come in two years hence and demand a re-hearing. If it is intended that the application be made *ex parte*, I would suggest that the words be added: "upon an *ex parte* application made by them within the prescribed time." That should be made quite clear. I think the Minister will agree that both as to the question of giving notice to the other side and as to the question of period there is need for some verbal amendment.

Mr. O'HIGGINS: One of the points the Deputy has raised would require some consideration—that is, as to whether the application should be *ex parte* or on notice given. It would be better to leave the section as it is, and I will undertake to consider both that point and the question of a time limit, which I think is quite proper, between this and the next Reading.

Mr. GAVAN DUFFY: There is another suggestion I desire to make in connection with the new section. The section, as drawn—incidentally I must congratulate the Minister for Amendments on the admirable way he has drawn the amendments—puts a little too much onus upon the applicant, because the applicant has to prove that he has a good defence.

The Dáil will see that the applicant, if he gets leave for a re-hearing, is taking upon himself the risk of having to pay the costs of the whole proceedings. Therefore it should be enough that the applicant should prove on an *ex parte* application that he probably has a good case. I assume that the other side is not there, and that the case will be thrashed out on the re-hearing eventually. I ask that, on the next stage, the word "probably" be inserted in the section. What I suggest is, that in the fifth line of the amendment it should be made to read: "It shall be proved that such person probably had a good defence." I

think if you make the person prove definitely that he has a good defence, you are asking the Commissioners to prejudge the case before the re-hearing takes place at all.

Mr. O'HIGGINS: The wording in the amendment is: "to prove to the satisfaction of the Court." If it is a mere verbal alteration that the Deputy requires, I will undertake to change that phrase.

Mr. GAVAN DUFFY: What the Minister suggests would go a long way to meet my point, but I would like the word "probably" to be put in so that the Commissioners, have this definite fact before them, that if they think the applicant is probably right, he is entitled to have a re-hearing at his own risk.

Mr. O'HIGGINS: I will consider the bringing in of an amendment on the lines suggested by the Deputy.

Question put: "That the new Section stand part of the Bill."

Agreed.

AN CEANN COMHAIRLE: That will necessitate an amendment of the Title.

Mr. DUGGAN: I beg to move an amendment to the Title, in line 14, to add after the word "aforesaid" the words "and relieving certain hardships and anomalies which have arisen in connection with these Courts."

Amendment put and agreed to.

THE DAIL RESUMES.

Amendment to title reported.

Mr. DUGGAN: I beg to move: "That the Dáil agrees with the Committee in the said amendment."

Question put and agreed to.

DAIL IN COMMITTEE.

SECTION 26.

Motion made and question put: "That Section 26 stand part of the Bill."

Agreed.

SECTION 27.

(1) If and whenever the time limited by any statute for instituting any proceedings in any Court of law or equity would, but for this section, have ex-

pired on any date between the 31st day of December, 1918, and the 16th day of April, 1922, such time shall be and is hereby extended for three months after the passing of this Act, and any such proceedings which shall have been instituted after the expiration of the time so limited by such statute and before the passing of this Act, or which shall be instituted before the expiration of three months after the passing of this Act, shall be deemed to have been instituted within the time so limited by such statute.

(2) This section shall not apply to any limit of time which can be extended by a District Justice under Section 6 of the District Justices (Temporary Provisions) Act, 1923 (No. 6 of 1923).

Mr. FITZGIBBON: I desire to make one more appeal to the Minister to improve the Bill by striking out this section. The amendment to the Title which has just been carried certainly does not cover this section, because it refers only to certain anomalies that have arisen in the Dáil Courts, which are the only Courts referred to in the Title to the Bill. This Bill deals with the time limit for starting or instituting proceedings in any Court, and it seems to me that this section opens the gates for a flood of fraud and perjury, and that it is likely to open up cases which can lead to all kinds of hardship. People who have acted in the capacity of executors, and who administer estates in good faith and paid away property to people who were entitled to it, relied upon the fact that the statutory period of six years had elapsed from 1912, and got the property distributed. These people, I say, who have been in undisturbed possession of the property since 1912, are now liable to be put out at the suit of some next-of-kin or of anybody who comes forward and says that he would like to have brought his action in 1918, but that he had not got the money. If this section is passed everything that was done between 1912 and 1918 can be ripped up in the case of people who, in good faith, distributed the assets they were bound to distribute to the people who were entitled in law to receive them. That is what will happen in cases where there was a sale of land. People who acquired a title to lands by having occupied them for twelve years in undisturbed possession will now be liable to have cases faked

up against them by some returned next-of-kin from America or some other place. A person who brings such a case may have no hope of succeeding, but when he sees legislation like this passed he will bring his action in the hope that the person he proceeds against will settle with him, and if not he can saddle the other person with enormous expense. Apart from these cases there are the very serious cases of tort and assault. An action for assault was statute-barred after four years, and an action for slander was statute-barred after two years. Cases of that kind can be raked up again against some person or other, who will be told, "You'll have the law unless you pay me compensation for blackmail, and I will take proceedings against you in Court." It seems to me to be a mischievous thing in an Act of Parliament to introduce in a Bill for the winding-up of the decrees of the Dáil Courts a provision whereby the Statute of Limitations in all cases is extended and under which actions that were barred after six years can now be brought on. In some cases a person, relying on the Statute of Limitations, who brought his action and got his decree may now find that the case can be brought on all over again. We have had a certain amount of retrospective legislation in this Dáil, but we have never had anything to approach within a thousand miles of this. It was only on Saturday last that I got a decree for a poor member of the minority in the Northern State. He sold a farm, relying on his statutory title, but the parties to whom he sold it thought they would be able to squeeze him a little more, having already squeezed him out of his farm. But his title was held to be good, and even in Belfast they have not passed any legislation like this. If they had, this poor man would have been done out of his farm and out of his money as well. I think the Minister should pause before putting into an Act of Parliament dealing with the winding-up of decrees of the Dáil Courts a section such as this, which will create chaos in the administration of estates that have been administered since 1918, the parties concerned relying on the law as it stood at that time. As I say, this section is only for the benefit of people who were not prepared at the time to say on which side of the fence they would come down. It is only the people who would not commit themselves to one side or another

[Mr. FitzGibbon.]

that get the protection of this particular section, and not only that, but for six or seven years, as the case may be, when they had the ordinary law to go to, they refrained from going into court, before 1918. These are the people who, for eleven years, that is to say six years before 1918, refrained from going to court, who are now given an extension of five years from 1918 to three months from the date of the passing of this Act. I would earnestly appeal to the Minister to say that this is not the kind of section that ought to be passed at all. It is certainly not the kind of section that ought to be put into an Act without giving some kind of protection to people who, relying on the ordinary law as they found it at the time, administered estates or bought and sold property. For five years before 1918 these people, relying on the law as it stood at the time, administered estates and did the other things that I referred to.

Mr. O'HIGGINS: I have only to say what I said on the Second Reading against the hypothetical cases which the Deputy conjures up, that there is in my Department abundant evidence, from actual concrete cases, of the hardship that would ensue if the Statute of Limitations were not extended in such a way as to omit these few years of turbulence and revolution, when there was a concurrent jurisdiction and a concurrent lack of jurisdiction. That is the case which I mention against the cases which he says are conceivable. I know there are actual cases of people in many areas in the country who were unable, during these years, for reasons that it is unnecessary to dilate upon, to collect debts or assets of various kinds. It has been represented to us very persistently and very consistently in recent months that a Bill should be brought in to provide that matters of that kind ought not to be Statute-barred, having regard to the fact that for two or three years it was not reasonably possible for inhabitants in many areas through the country to get redress of the law or the support of the law for the obtaining of their rights. I do not suppose that the Deputy would contend that in Cork, Kerry, or Tipperary, or in many other areas through the country, during these few years of strife,

that the machinery of the law was absolutely and normally at the disposal of traders, let us say, for the collection of their debts. That is just the other side of the shield, and putting one against the other, and having regard to the short period fixed here of three months in which cases of that kind must be brought to the surface, we have felt that the weight of the argument, and the weight of the equity, lies rather in favour of prolonging the period than to take the view where you could or could not get redress of the law, where you had or had not the machinery of the courts at your disposal between 1918 and 1921, the Statute of Limitations and other barring statutes of that kind must be held to have run.

Mr. GAVAN DUFFY: I am very glad that the Minister intends to stick to his section for the sake of the people he mentions. I do realise that there is a liability of danger such as Deputy FitzGibbon has suggested, but I think it ought to be possible to get rid of that danger by a small amendment to this section. If we provide that the extension of time limited by statute shall apply, subject to the leave of the Commissioners, every person who wants to take advantage of this section must go before the Commissioners and get their sanction to his so doing. That, I think, would meet all the cases that the Minister has in mind, and at the same time I think it would satisfy the people whose interests Deputy FitzGibbon is afraid to see jeopardised. Some scheme of that kind might be made to enable the Commissioners to decide on the facts whether it is right or not that people should get rid of this statute-barring. The Commissioners would be able to decide whether the case was a proper case to go forward, or whether it was an improper one. In the latter case they would refuse to remove the bar.

Mr. FITZGIBBON: I think that should be done by a proper Statute of Limitations Bill, which could be brought in here when we would have time to consider the arguments for and against it. The Minister speaks of turbulence of Cork, Kerry, and Galway during the period of two years. But what, I ask, was there to prevent anyone from prosecuting a suit here in the City of Dublin? I suggest that in the City of Dublin there

are as many suits for the recovery of debts dealt with in a given period as there would be over the rest of the Saorstát. Here in the City of Dublin we had both courts functioning, and yet, despite that, under this section power is to be given to have hundreds of these cases ripped up, as if the turbulence of this city prevented people from going to the courts with their cases. The districts in which the courts were not functioning were fairly limited, and could be very clearly defined in an Act; but it is the reopening of cases at random, without any regard for decency or justice, that revolts me against this section. I do not think we could possibly amend the section by tinkering with it now in such a way as to cover cases on each side—the side of justice and the side of hardship. I suggest that this section should be withdrawn altogether, and that the Minister should carefully consider granting an extension of the statutory limitations, which provided protection for people who had sold

their property or administered estates *bona fide*. Take the case of a *bona fide* administered estate. A person sold certain landed estate *bona fide*, and for a valuable consideration, relying on the statutory title he had got. Surely a person in that position is entitled to some protection, but under this section he would have none. I think a Bill should be brought in covering cases of that kind and giving protection to people entitled to expect justice and not injustice from this Dáil.

AN CEANN COMHAIRLE: As it is now 8.30, the Committee will report progress.

THE DAIL RESUMES.

Progress reported; the Committee to sit again on Tuesday, 31st July.

The Dáil adjourned at 8.30 p.m. until 3 p.m. on Tuesday, the 31st July.

DAIL EIREANN.

DE MAIRT, 31adh IUL, 1923.

(Tuesday, 31st July, 1923.)

Cromadh ar obair an lae ar a 3.5 p.m.
Bhí an Ceann Comhairle, Micheál
O hAodha, 'sa Chathaoir.

GEISTEANNA—QUESTIONS.

[ORAL ANSWERS.]

IMPORTED GRAIN—SUGGESTED
EMBARGO.

LIAM O DAIMHIN asked the President whether, in view of the bad treatment and low prices received by barley growers last year and its serious effect upon this important industry, he will recommend that an embargo be placed upon imported grain during the coming season or that the State guarantee a price which will secure to the grower a reasonable return for the use of his land.

The PRESIDENT: The suggestions made by the Deputy are essentially matters affecting the fiscal system of the country and the measures necessary for the development of agriculture, and it would be well, I think, to await the Reports of the two Commissions considering such subjects—the Fiscal Commission and the Commission on Agriculture—before coming to any conclusions.

The Deputy can rest assured that the Government is giving and will continue to give the most careful consideration to the state of agriculture with a view to ensuring the welfare of this, the main industry of the country.

Mr. JOHNSON: Does the Minister give us any promise that the Reports of these two Commissions will receive any more consideration than the Reconstruction Commission's Report?

The PRESIDENT: I hope that they will not propose such expensive settlements as have been proposed by the Reconstruction Commission.

Mr. CORISH: If the Agricultural

Commission recommended such a course would the Minister carry it into operation?

DIVIDEND WARRANTS—RETURN
BY BANKS.

SEUMAS O DOLAIN asked the Minister for Finance whether his attention has been directed to the statements made in the newspapers as to banks in the Saorstát being required to make a return to the Government of dividend warrants cashed for their customers, and whether he will state under what Act such particulars are required and the purposes for which they are needed.

MINISTER for FINANCE (The President): A good deal of misunderstanding appears to have arisen in connection with this matter, and I am obliged to the Deputy for the opportunity he has afforded me of explaining the position.

Under the provisions of the Income Tax Act, 1918, bankers and other persons in Saorstát Eireann entrusted with the payment of any dividends payable out of any public revenue other than that of Saorstát Eireann or with the payment of any interest, dividends, etc., payable in respect of the stocks, funds, shares or securities of any foreign or colonial company (including a British company), become liable to deduct Saorstát Eireann income tax at 5s. in the £ for 1923-24 and account for such tax to the Revenue. In the great bulk of these cases British income tax at 4s. 6d. in the £ is already deducted, and the operation of the ordinary law would, therefore, have resulted in a total income tax deduction of 9s. 6d. in the £. According to a statement made by the writer of "Notes from Ulster" in the issue of the *Freeman's Journal* of the 26th July, this is actually happening in the case of persons resident in the Six Counties who have investments in Saorstát Eireann companies, that is to say 5s. Saorstát Eireann tax is deducted by the Secretary of the Company in the normal course, and 4s. 6d. British tax is deducted in addition by the Northern bank which cashes the dividend warrant.

Whilst the Finance Act for this year was under consideration it was represented to me that this system would involve grave hardship on taxpayers in the Saorstát in very many cases unless some modification could be adopted,

and Section 10 of the Finance Act was passed to deal with the point.

This section on the one hand authorises the Revenue Commissioners to make arrangements with the banks relieving them of the liability to deduct Saorstát Eireann tax in such cases, and on the other hand imposes on the banks the obligation to furnish to the Revenue authorities particulars of the cases in which, but for the operation of this section, they would have been obliged to deduct Saorstát tax. The object of the latter provision is, of course, to secure that the tax due to the Saorstát may be collected by means of direct assessment on the recipient of the dividend.

The advantages of this arrangement from the point of view of the taxpayer are obvious. It saves him the inconvenience arising from a deduction of tax which may be far in excess of his liability and, since the Inspector of Taxes who assesses the dividend will normally have the taxpayer's return before him when the assessment is made, and can, therefore, make the appropriate deductions and allowances, it also relieves the taxpayer in most cases of the necessity for making a repayment claim to the Saorstát Revenue authorities.

There is no deep-laid scheme underlying the concession. It is not the fact, as stated in some quarters, that the banks must divulge particulars of their customers' private affairs in general, or that they must furnish details of all dividend warrants cashed. The section, for example, has no reference whatever to the dividend of a Saorstát Eireann company, since Saorstát tax in such cases is deducted by the Secretary of the Company. The banks are merely obliged to render particulars of dividends from which they would otherwise have had to deduct tax, and whilst, technically, the section as passed would necessitate the rendering of particulars by the banker in such cases whether he deducts tax or not, the Revenue Commissioners will not, in practice, require the details called for by the section in the case of any taxpayer who prefers that the ordinary provisions of the Income Tax Act, 1918, should be given effect to in his case, and Saorstát tax at 5s. in the £ deducted from his dividends.

There is one other point I should like to refer to. It is stated that, in consequence of the income tax arrangements,

many persons are transferring their bank accounts to Great Britain or Northern Ireland. It must be borne in mind that residents in the Saorstát are liable to make returns for assessment by the Saorstát Revenue authorities of all income which has not borne Saorstát tax by deduction at the source. Where a taxpayer opens a bank account outside the Saorstát, pays into that bank account the proceeds of dividends which have not borne Saorstát tax, and then omits such dividends from his income tax return, the conclusion is almost irresistible that he is deliberately endeavouring to defraud the Revenue of the Saorstát, and thereby shift his own burden on to the shoulders of his fellow-taxpayers. It will be the duty of the Revenue Commissioners to use every effort to bring such persons to book, and to secure the imposition of the maximum penalties which the law prescribes for the punishment of such offences.

IRISH MILLED FLOUR.

LIAM O DAIMHIN asked the Minister for Industry and Commerce if he is aware that the greater portion of the bread used in Athlone Barracks is made from foreign imported flour, whereas Perry's Belmont (Offaly) Mills, which is only 12 miles from Athlone, has been closed down during the past few weeks owing to trade depression, thus causing 70 local mill workers to be thrown out of employment; whether he is prepared to recommend the military authorities in this and other barracks to insist upon the use of Irish flour in any contract that may be given for supplying bread to the troops and prisoners.

MINISTER for DEFENCE (General Mulcahy): This question has been passed on to me by the Ministry of Industry and Commerce as one referring to me.

The bread used in Athlone Barracks is baked by the Army. Until recently the flour used was purchased locally. It is now being bought from the Dock Milling Company, and is Dublin-milled flour. The general practice in regard to breadmaking in the Army is to use Irish-milled flour.

EVICTON OF A LABOURER.

AODH O CULACHAIN asked the Minister for Home Affairs if he is aware

[Aodh O Culachain.]
that a labourer named James Bourke, of Sallins, County Kildare, was evicted from his house recently, and had with his family to take up residence in a cowshed, no housing accommodation being available, and will the Minister give orders that he be reinstated until alternative accommodation is provided.

MINISTER for HOME AFFAIRS (Mr. K. O'Higgins): The owner of the cottage formerly occupied by James Bourke obtained from the Court a decree for possession of the premises in consequence of non-payment of rent. I have no power to order Bourke's reinstatement.

CURRAGH RACES—CONTROL OF TRAFFIC.

AODH O CULACHAIN asked the Minister for Home Affairs if he will give orders to provide a sufficient number of Civic Guards to direct and control the motor traffic on race days on the roads leading to Curragh Standhouse, including the points at Liffey Bridge, Newbridge, and crossroads at Railway Hotel, Kildare, as many residents are complaining of fast and reckless driving on the days mentioned.

MR. O'HIGGINS: No cases of reckless driving on Curragh race days at the places mentioned have been observed, nor have any complaints been received. All necessary steps will be taken by the Civic Guard to regulate the traffic at the points indicated in the question.

CURRAGH GREENLANDS—CUTTING OF THISTLES.

AODH O CULACHAIN asked the Minister for Agriculture if he is aware that the Curragh Greenlands are being rapidly overgrown with thistles, and that the men employed in cutting them have been discharged; and whether the Minister will give orders to re-employ those men in order to save those and the farm-lands adjoining the Curragh from being further infected by this noxious weed.

The PRESIDENT (for the Minister for Agriculture): The cutting of thistles on the Curragh Greenlands is still in progress. The work is being carried out by a small permanent staff, none of whom has been dismissed. The men referred

to by the Deputy in his question as having been discharged were engaged specially by the Office of Works for the work of removing the noxious weeds on the lands under the control of the Ministry of Defence. On the completion of this work six of the men were discharged, and the remaining three are still employed on another temporary job. The excessive growth of weeds on these lands this year is due to the absence of cavalry or artillery manoeuvres, which during the British occupation helped considerably in keeping the ground clear.

RAIDS IN OFFALY.

LIAM O DAIMHIN asked the Minister for Defence whether he has received complaints from Messrs. P. & H. Egan, Ltd., Tullamore, Offaly, regarding raids on their Ballycumber Branch on May 2nd, 28th, and 31st; June 4th, 11th, 14th, 25th and 27th; July 2nd, 3rd, 4th, 5th and 14th; and their Tubber Branch on June 6th, 11th, and 14th; July 18th and 21st, during which a considerable quantity of whiskey and cigarettes was taken, and if he will state what effective steps he intends to take in order to give the necessary protection to the property of this firm and capture the culprits.

General MULCAHY: Notification of raids was received on the 24th inst., by the local military authorities from Messrs. P. & H. Egan. The raids were the work of three or four armed men who raid for drink and cigarettes. Otherwise this particular area is quiet. Steps have been taken with a view to arresting the persons concerned.

QUESTION ON THE ADJOURNMENT.

EXTENSION OF CRIMINAL AND MALICIOUS INJURIES ACT

Mr. GOREY: I desire to give notice that I will raise a question on the adjournment as to the advisability of introducing legislation to extend the date of the Criminal and Malicious Injuries Act in order to deal with the question of compensation beyond the 20th of March.

AN CEANN COMHAIRLE: Two matters were left over from yesterday's Order Paper. The Dáil Eireann Courts (Winding Up) Bill had not been concluded in Committee, and the Civic Guard Bill had not been reached.

DAIL EIREANN COURTS (WINDING UP) BILL, 1923.

COMMITTEE STAGE RESUMED.

Mr. K. O'HIGGINS: I was speaking when we adjourned last evening on Section 27. Overnight we considered to what extent we could meet the objections by Deputy FitzGibbon, and I am prepared to ask the leave of the Dáil to insert an amendment in Sub-section 1, Section 27, as follows:—

“ In line 11, to delete all from and including the words ‘ time shall be ’ to the end of the sub-section, and to insert in lieu thereof the words ‘ Court may if it is satisfied that justice so requires, extend such time to any date not being later than three months after the passing of this Act.’ ”

I think that that goes some distance at any rate to meet the objection, and the case which Deputy FitzGibbon urged against that section.

Mr. FITZGIBBON: That goes a considerable distance to meet my objection, but I would ask the Minister to consider between this and the next stage whether he would not go a little further and add a proviso: “ Provided always that this section shall not apply in the case of any land which shall be conveyed or assured *bona fide* and for valuable consideration.” One of the great difficulties that this section has created in my mind is in regard to people who have got—as I know of my own knowledge some people have—a statutory title to land, and have paid money for it, and the vendors have gone away with that money. This section would enable the unfortunate man who paid money for land under a good title to be ejected from that land, and there would be no means of recovering the purchase money he had paid to the person who may have gone away. I do urge the Minister, now that he has seen that this is not a perfect section, to consider whether he cannot make it very much better than it is by at least protecting those people who have got property for which they have paid good money. It seems to me that the merest justice requires that people of that kind should be protected. These people do not seem to fall within the provisions of the amendment that the Minister has already indicated his willingness to introduce. A simple proviso such as I have read would

meet the case. Otherwise I am grateful to the Minister for the way he has endeavoured to meet the objections I have put forward.

Mr. O'HIGGINS: I would be prepared to accept the Deputy's addition to this amendment.

Mr. FITZGIBBON: I will put it down for the Report Stage.

Amendment by Mr. O'Higgins put and agreed to.

Question put: “ That Section 27, as amended, stand part of the Bill.”

Agreed.

TITLE.

Question put: “ That the title, as amended, be the title of the Bill.”

Agreed.

THE DAIL RESUMES.

Bill reported.

Mr. O'HIGGINS: I ask that the Report Stage be taken now. I have three slight drafting amendments as a result of criticisms on the Committee Stage yesterday. They are not of any consequence, and they are all to meet good and valid objections raised yesterday, and upon which there seemed to be general agreement.

Report Stage ordered to be taken to-day.

Mr. O'HIGGINS: I move that the Bill be now received for final consideration.

Mr. DUGGAN: I move an amendment in Section 5, Sub-section (4), line 60, to add after the word “ Act ” the words “ but nothing in this Act shall prevent any registered decree being pleaded and given in evidence by way of defence or set-off in any proceedings.”

Mr. O'HIGGINS: This amendment is to meet certain criticism expressed by Deputy Gavan Duffy yesterday. I am advised that the words are superfluous, and neither add to nor subtract anything from the Bill; but to meet the Deputy's wishes and the anxiety he professed to feel, I thought it better to insert these words.

Amendment agreed to.

Mr. DUGGAN: I beg to move an amendment in Section 20, Sub-section

[Mr. Duggan.]

(2), line 44, to insert a new clause as follows:—

- (d) fixing the liability for the costs incurred in proceedings before the Commissioners, and measuring the amount of such costs.

Mr. O'HIGGINS: Yesterday I submitted that the fact that the Commissioners were themselves a court gave them power under their general rules to award costs, but the Deputy wished to see it explicitly in the Bill, and the amendment is to meet that.

Amendment agreed to.

Mr. DUGGAN: I beg to move an amendment in Section 26, Sub-section 1, line 6: To delete the word "good," and insert in lieu thereof the words *prima facie*, and in line 10 to insert immediately before the words "upon such terms" the words "at any time within three months after the passing of this Act and."

Mr. O'HIGGINS: This is an amendment to an amendment moved yesterday evening. Deputy Duggan moved to insert in Section 25 of the Bill a new sub-section, enabling a certain class of case to be reopened in certain circumstances. One of the conditions was that the applicant should first prove he had good evidence. Deputy Gavan Duffy took objection to the word as asking too much at the preliminary hearing. Although I am sure there is precedent for the form of words used, it is now proposed to qualify the word by the words *prima facie*. As regards the three months limit, it seems that any case which is to be reopened under the provisions of this Bill should be reopened immediately, and that it should not be left indefinitely open to people to ask for a rehearing of a case decided during the period referred to.

Amendment agreed to.

Mr. FITZGIBBON: I beg to move as an amendment in Section 27, Sub-section (1), to insert a new sub-section:

"Provided always that this section shall not apply in the case of any land which shall have been conveyed or assured *bona fide* and for valuable consideration."

Mr. O'HIGGINS: I accept that.

Motion made and question put: "That the Bill, as amended, be received for final consideration."

Agreed.

Mr. O'HIGGINS: I move that the Bill do now pass.

MINISTER for LOCAL GOVERNMENT (Mr. Blythe): I beg to second the motion.

Question put and agreed to.

CIVIC GUARD BILL, 1923.

SECOND STAGE.

Mr. O'HIGGINS: It will be recollected that one of the first problems that confronted the Provisional Government after its establishment was the matter of organising a police force to take the place in the country of the Royal Irish Constabulary which it was agreed with the British Government would be disbanded. For that end a committee was set up to advise the Government. That committee having sat for some weeks recommended the formation of a new police force in Saorstát Eireann, excluding the Dublin Metropolitan Police District. They recommended that the Police Force would be centrally controlled, and responsible to the Executive Government. That recommendation was accepted and acted upon by the Provisional Government, and a start was made at the organising of the Civic Guard. This Bill is brought forward with a view to giving the Executive Council Statutory power to raise, train, equip, pay and maintain the Civic Guard, and from time to time to determine within the limits set out in the Schedule the strength of the Force. Subject to the general regulations to be made by the Minister for Home Affairs, it is proposed to vest in a Commissioner of the Guard general directions and control of the Force. The Bill provides that the appointment of the Commissioner and the other officers of the Force shall be made by the Executive Council. As the force is not local, but is an organised National Police Force, it is essential that it should not exist out of the immediate authority of the Executive Council. A provision that all officers should be appointed by the Executive Council will give a proper constitutional derivation to their authority, and a proper direction to their allegiance. I want to direct the

attention of Deputies for a moment to Section 4, Sub-section 1 of the Bill. It reads: "The officers of the Civic Guard shall be divided into the several ranks specified in the First Schedule to this Act, and all such officers below the rank of Surgeon shall be appointed, and may at any time be dismissed, by the Executive Council, and may be from time to time promoted or degraded by the Commissioner in accordance with regulations made under this Act."

It is felt that to preserve strictly the theory that all Executive power and authority wielded in the country is, in fact, the delegated power and authority of the people, that commissions in this police force should be given by and on behalf of the Executive Council, and it is clear that commissions can be withdrawn only by the body that gives them. In the Executive Council is pooled the Executive authority in the country. The people delegate to their representatives in the Dáil their own power which in turn is entrusted to a Committee of the Dáil itself which is called the Executive Council. That Executive Council is a pool of the fountain head of the Executive authority of the country, and that is delegated out on well-defined conditions to individuals. The Act of withdrawing that Executive authority which is derived from the people must be from the body which delegated it. Therefore, the commissions to officers in this Force will be held as from the Executive Council, and the Executive Council must perform the Executive act of withdrawing these commissions, if withdrawal is considered necessary. I want to make this point clear. You cannot put a man at the head of a force of this kind and expect him to preserve proper discipline, and to attain a high standard of efficiency, and at the same time proceed to undermine his authority or to undermine the discipline of the force. I want to make it particularly clear to members of the public, and to members of the force itself that the Executive Council will act through well defined channels, and will in fact act on the recommendations of the person who is placed at the head of the force. It would be a fatal thing if members of the Guard or members of the force were to get any idea into their heads that by personal contact, let us say, with politicians, or otherwise, that they could provide for

themselves a Court of Appeal from disciplinary decisions of their own authorities. That is not the position. It will be a disciplinary offence if any member of the Guard attempts to secure contact with the Executive Council, or with members of the Executive Council, otherwise than through the recognised channels of seniority and rank. In a young force it is necessary to stress and to emphasise things that are recognised as being a matter of course amongst older disciplined bodies, and consequently I want to dwell for a moment on that aspect of Section 4 Sub-section (1), that the Executive Council could not entrust to an individual the task of enforcing discipline and of maintaining efficiency of that particular force if his word did not go every time in matters concerning the internal discipline of the Guard. Therefore, what is maintained under Section 4, Sub-section (1) is that the withdrawal of the delegated authority of the people from any individual, must be an Executive Act, an Act of the Executive Council; but I want to make it clear that the Executive Council will act through well defined channels, and on the recommendation of its responsible official who is placed in charge of that particular force. Members of the force will be required to take a declaration pledging themselves to be faithful in their employment to the Executive Council. That declaration is set out in the Schedule, and states that they are to render true service and obedience to Saorstát Éireann and its constitutional Government. The maximum strength of the force is set out in the Schedule. The maximum estimated strength required is 4,119 ordinary Guards; the statutory maximum is 4,400, leaving a margin of about 200, if it should be considered necessary. There will be a small Reserve Force maintained in the Depot, a Reserve Force of about 200.

This force will be there to meet any calls that may be made for extra police from particular areas. If that number of 200 is kept as a floating number of men returning to the Depot from time to time, gradually in about three or four years the whole force will have passed back through the Depot, and the matter of keeping such a Reserve will not be a waste. Men who go on Reserve like that in the Depot can be taking special courses, and in any case it is perhaps

[Mr. O'Higgins.]

to the good that the longest time that any member of the force would be away from his headquarters would be, speaking roughly, about three or four years. If you take it that there is a body of 200 men on Reserve in the Depot for three months, that would be 800 men passing through the Depot in one year, and in four years that would practically cover the entire force. It might be just as well that policemen would have an opportunity of doing special courses in that way when they are called back to the Reserve. Section 6 proposes to confer on the Minister for Home Affairs powers to make regulations to govern the general distribution of the Guard throughout the country. It is at present proposed to occupy 807 stations, but the ultimate scheme of distribution can be fixed only in the light of experience. The number of barracks in the occupation of the R.I.C. on the 1st June, 1914, exclusive of those situated in the Six North-Eastern Counties, was 1,129; the proposed total establishment of the Civic Guard provides for 807 stations. It is, perhaps, unnecessary to go into a comparison of the strength at this stage. If Deputies were interested I could, in answer to a question, give a comparison of the strength of the Guard with the actual strength of the R.I.C. in the twenty-six counties in 1914.

It is proposed that the rates of pay and allowances and the pension scheme of the Civic Guard should be regulated by orders to be made by the Minister for Home Affairs, with the sanction of the Minister for Finance. These orders will require to be laid before the Dáil, and the Pensions Scheme will not become operative unless approved by resolution of the Dáil. Provision is made in Section 10 for the holding of inquiries and the examination on oath of complaints of neglect or violation of duties which may be preferred against members. Members of the Guard are required to give one month's notice of their intention to resign, unless authorised to do so by a senior officer, and to deliver up, on resignation or dismissal, all clothing, etc., supplied to them. Provision is made for the creation of representative bodies to enable members of the Guard to bring to the notice of the Commissioner or of the Minister matters affecting their welfare and efficiency, other

than questions of discipline and promotions affecting individuals. Attempts to cause disaffection amongst members of the Guard or to induce members of the Guard to commit a breach of discipline will be punishable by fine or imprisonment. Unlawful possession of clothing supplied to any member of the Guard will be similarly punished. In Section 18 there is provision that the costs and charges incurred in respect of the Civic Guard shall be paid by the money provided by the Oireachtas, and provision is made in Sub-section (2) of that section to preserve the existing liability of local bodies under any of the statutes mentioned in the Fourth Schedule in respect of the Food and Drugs Act and the Weights and Measures Act and the conveyance of prisoners and lunatics. It is proposed in Section 19 to create a Fund, to be called the "Civic Guard Reward Fund," for the reward or benefit of the Civic Guard in such manner as may be arranged. This Fund shall be composed mainly of disciplinary fines imposed on members of the Guard. It is proposed to repeal the provisions of the Constabulary Acts relating to the organisation or internal administration of the R.I.C. There are very numerous references in other Acts, such as the Summary Jurisdiction Act, to officers and other members of the R.I.C. The repeal of such Acts is not practicable, and it is accordingly necessary to adapt references of that kind, and that is covered by Section 20. Section 21 provides for the application of the Bill to the existing force known as the Civic Guard, and for giving retrospective statutory recognition to that force.

Mr. BLYTHE: I second the motion.

Mr. JOHNSON: My objection to this Bill is similar in character to the objection to the Military Defence Bill. The proposition was that there was a necessity for introducing a Bill and passing it to legalise the Civic Guard, and we all agree, I think, that that was necessary. But we did not expect to be asked to consider a detailed scheme for the organisation of a police force for the future. This Bill purports to make a Constitution for a police force for the country—a centralised police force—and we are asked to do that in these last two or three days of a session. I say that that is not fair. It is not reasonable, and it ought not to be

proceeded with. Facilities to legalise the present organisation, to carry it on until there is time to examine a Bill relating to the establishment of a police force, could have been accepted without demur, but I think that this Bill raises quite a number of questions of controversy that would require a good deal of consideration. It cannot have that consideration if we are to deal with the other Bills that are coming forward. There are questions that might be raised on every one of those points that the Minister has endeavoured to describe, and a good deal of examination and comparison between this Bill and the organisation that is proposed to be set up in this Bill with other police forces, and this is not intended to be a temporary Bill. It is to be a permanent establishment of a police force. The organisation is set forth. The whole scheme, penalties, discipline, and the like, are set forth, and we are asked to pass the Second Reading and to pass the Bill into law really without consideration. I do not think that that is carrying out the intention of what was more or less a general agreement that non-contentious or formal measures could be passed, and that certain steps would be taken to legalise the existing institutions. This is not merely legalising the present Civic Guard, but it is formulating a Constitution for the Civic Guard and making it a permanent force, without giving us an opportunity to examine and criticise the measure. We have in Section 14, for instance, a scheme which has only just been imposed on the London Metropolitan Police, and we do not know how it is working out. We cannot tell whether it is satisfactory, or leading to a better disciplined and more efficient police force. But it is being put upon us here, and upon this Force, whether we like it or not. This question of a Reward Fund, practically in its essence is an encouragement to over-officiousness. I do not think that it is a desirable clause to put into a Bill, and I do not think it is at all a satisfactory method of encouraging the proper observance of duties to reward officers for extra zeal in finding out petty offenders. These references to the membership of various kinds of societies and organisations, too, I think would require some examination. One need not be accused of trying to make a police force a political body, when one objects to the decitizenising of policemen; and to im-

pose upon a policeman the obligation that he will not belong to any political society or subscribe to any political society whatsoever, is, I think, going too far in the de-grading of a citizen once he becomes a policeman. A political society would have to be defined, and subscribing to a political society may mean agreement with a political society. It does not follow that the word "subscribe" means to subscribe money. The whole Bill would require examination, and I submit that it is going beyond the promise that only non-contentious measures would be submitted and required to be passed before the Dissolution. I think that it is not beyond the capacity of the draftsmen at the disposal of the Government to introduce a Bill which would say that the present Civic Guard, and its present establishment, is legalised, and that, pending the enactment of a measure drawing up the Constitution of such a police force, the present force would have legal authority and legal sanction. It seems to me that it is unnecessary in any way to go into all these details as to the future composition of a police force. I object to the attempt to force us into passing a permanent Bill without an opportunity for proper examination.

CATHAL O'SHANNON: Strong as was the case for a temporary Bill for the Army, the case for a temporary Bill for the Civic Guard is much stronger. Deputy Johnson has shown quite conclusively that the measure before us is a controversial measure; at least, in several of the sections it raises issues that are of a most controversial nature. Not only that, but there is the argument, somewhat analogous to the point made on the Army Bill by Deputy FitzGibbon, that it is quite allowable that there should be different conceptions of the nature of a permanent police force in Ireland. This provides for one kind of police force. The strength of arguments may be in favour of that particular kind, that is a strongly centralised police force, at this moment, and until such time as things in Ireland become somewhat normal, but undoubtedly, if we were in normal time there would be a great strength of feeling in favour of a different and, perhaps, more localised police force. That is not possible under this Bill. Deputy Johnson has mentioned some of the points that are controversial, and

[Cathal O'Shannon.]

some of the things that require definition. There are one or two others which I will refer to briefly. One is in the Second Schedule, the form of declaration to be taken by the Guards. It is very elaborate, much more elaborate and much more inclusive, I think, than the oath to be taken by soldiers or officers in the army, but at the end of it there is this declaration:—"And I will not while I hold the said office join, belong, or subscribe to any political society whatsoever, or to any secret society whatsoever." I put it to the Dáil that it is equally necessary that there should be a definition of what a secret society is, as that there should be a definition of what a political society is.

Are we to take it, for instance, that under these are included such bodies as, let us say, the A.O.H., the Masonic Order, the I.R.B., and various other organisations of that type? From time to time bodies of that kind have been popular, and have been sometimes politically described as secret societies. Other organisations might conceivably come under the definition. Take purely friendly societies of various kinds whose membership is not known publicly, and on which there is no legal obligation to declare their membership, are these, or are they not, to be included under this very wide heading of secret societies? It would require to be defined. There is another point in Section 11 which, I think, would require some consideration.

"No member of the Civic Guard below the rank of Chief Superintendent shall be at liberty to resign his membership, or to withdraw himself from his duties as such member unless authorised so to do in writing by the Chief Superintendent of the Area in which he may for the time being be stationed." These are points which undoubtedly, if time permitted, would raise a good deal of discussion and clarification, and perhaps if we could give them the time necessary, would receive amendment in Committee. I do not think it is at all possible to do that within the two or three days that remain to us, and having regard to the measures that have come before the Dáil, but I do put it, with Deputy Johnson, that the least the Minister could do, would be to make it a purely temporary measure, and even making it a temporary measure will not remove it from the

sphere of controversy, because there are some sections in it which can only be reluctantly agreed to in the circumstances.

Mr. O'HIGGINS: I realise the force of the objections urged by the Deputy that there is scarcely time to give the Bill regulating the future of the police of the country the consideration that it deserves. At the same time, I feel that there are very few of the 23 Sections of this Bill that any considerable contention could arise about. There are some. Some have been mentioned by the two Deputies who have spoken, but I would ask them to accept as a suggestion that the operations of the Bill be limited to twelve months, and that would give the next Dáil ample time to go very fully into the whole matter. I would urge twelve months rather than six months, because to confine the lifetime of this Bill to six months might involve the matter being considered under pressure by the next Parliament. At least one month will go practically from the time of the dissolution of this Parliament until the meeting of the next. That would mean that a six months' lifetime would bind the next Parliament to the consideration of this whole question inside the first five months of its existence. I would ask the Deputy to agree to an alteration limiting the operations of the Bill to twelve months, and leaving the matter of the permanent consideration of this question to the next Parliament.

Mr. DARRELL FIGGIS: I would like to add my voice to the suggestion that there be a limitation of the Bill and the arguments that have been adduced in favour of it, which arguments have been accepted by the Minister—that twelve months would be a better period than six months—and for a reason that came forcibly before my mind in looking at the Fifth Schedule, because the Fifth Schedule sets out a series of the Acts which are to be repealed in whole or in part. There are some of them that are entirely repealed, and there are some of them that are only preserved in so far as one or two sections are concerned. I presume if a final enactment were to be drafted the procedure adopted in many places would lend itself to careful consideration—whether the new enactment should not repeal all existing legislation and be the

document from which the future would date. In that case, if all these had to be gathered together and framed into an entirely new statute, there is no question about it that six months would be too short a time; it would be a complicated business. I am glad the Minister has agreed to the suggestion that this be regarded as a temporary measure, and that its being so regarded should be registered in the section. I do urge, for the reasons he has stated, in addition to the one I have now mentioned, that twelve months would be a more satisfactory period than six months.

Mr. JOHNSON: I was going to move an amendment that this Act should expire at the end of six months. I realise that there is some force in the argument in favour of a longer period of trial. I am prepared to agree to a twelve months period on an understanding, so far as this Dáil can come to an understanding of the kind. I realise that it is almost futile, certainly not very valuable, for a member here now, or a Minister there now, to pledge the future. Nevertheless, I think that, so far as the members who are here to-day can make any promise in regard to these Acts that we are passing as temporary Acts, there should be an understanding that they shall not be included in some Expiring Laws Continuance Act, but that they will, as a matter of fact, expire and new legislation be introduced. There is always a danger that the Schedule might be attached to a certain Bill, and it would be called number so and so of the year 1923, and this Act is continued. Nobody knows what it is about without very close research. I want to make clear, so far as it is possible, that these Acts will, as a matter of fact, expire, and that new legislation will be introduced to deal with the subject, that they will go through the regular process of introduction, Second Reading and Committee examination.

Mr. O'HIGGINS: So far as it can affect anything, I would agree to have it go on record that this Bill, at any rate, gets a measure of consent and acquiescence that it would not otherwise get on condition that when its legal life-time expires either this Bill, or some alternative Bill, will be brought formally before the Dáil and go through all the proper stages of legislation.

Motion made and question put: "That the Bill be now read a second time."

Agreed.

AN CEANN COMHAIRLE: When is it proposed to take the Committee Stage?

Mr. O'HIGGINS: I wonder would it feel very brutal if I suggested that we might take the Committee Stage now? We have more or less settled the question of the lifetime of the Bill. I think that, having settled that, it is scarcely seriously proposed to give the Bill the detailed critical analysis that it would get if it were a permanent measure. I would like to hear Deputy Johnson's view on the matter.

Mr. JOHNSON: My only doubt is whether there is anything in the Bill which would make the position of a member of the Civic Guard after the period of twelve months has expired a difficult one. Supposing any change in the constitution of the future Police Force was made, I do not want to prejudice the position of a member of the Civic Guard after this Act has expired.

AN CEANN COMHAIRLE: What form would the amendment take?

Mr. O'HIGGINS: The amendment would consist of a small additional section saying that the Act shall endure for twelve months, and shall then expire.

Mr. DARRELL FIGGIS: In that case perhaps the Minister might consider the identical wording of the Defence Forces Bill.

Mr. O'HIGGINS: That identical wording would suit, with the change for Civic Guard.

Mr. JOHNSON: May I hope, so far as the Minister can influence regulations, that we shall not have a repetition under 16 of the farce in relation to the "Rising of the Moon" and the policeman's uniform?

AN CEANN COMHAIRLE: Is it agreed to take the Committee Stage now?

• Committee Stage ordered to be taken.

COMMITTEE ON FINANCE.

The PRESIDENT: I move:

"That it is expedient to authorise the payment out of moneys provided by the Oireachtas of any expenses authorised to be incurred under any Act of the present Session to provide for the establishment and regulation of the Civic Guard."

Motion agreed to.

DAIL RESUMES.

Resolution reported.

The PRESIDENT: I move: "That the Dáil agree with the Committee on Finance in the Resolution."

Motion agreed to.

DAIL IN COMMITTEE.

CIVIC GUARD BILL, 1923.

AN CEANN COMHAIRLE: Would the amendment which has been agreed to regarding the duration of the Act be to add a sub-section to Section 1, stating that the Act shall continue in force until other provisions shall have been made by law, but shall not continue in any case in force after a period of one year from the date of the passing of the Act?

Mr. DARRELL FIGGIS: There is a certain advantage in having a section of this kind at the very outset. Would it meet the case if Section 24, with this addition, were to be made Section 1?

Mr. O'HIGGINS: We could move Section 24 up to Section 1, and say: "This Act may be cited as The Civic Guard (Temporary Provisions) Act, 1923."

AN CEANN COMHAIRLE: The amendment, then, is: "To insert before Section 1, 'This Act may be cited as The Civic Guard (Temporary Provisions) Act, 1923.'"

Amendment agreed to.

Mr. O'HIGGINS: I now move a new sub-section: "This Act shall continue in force until other provisions shall have been made by law for the establishment in Saorstát Éireann and the regulation of a police force, to be called the Civic Guard, and shall not in any case continue in force after the period of one year from the date of the passing hereof."

Mr. JOHNSON: I do not know whe-

ther that amendment would not prejudice the proposal which might be made that the D.M.P. be consolidated in the Civic Guard, or that a regular change in the method of the policing of the country be made.

AN CEANN COMHAIRLE: It would hardly prejudice it any more than the Bill does as it stands.

Mr. JOHNSON: It might be a very long time before we would establish a police force to be called the Civic Guard.

AN CEANN COMHAIRLE: We are getting into very deep water now.

Mr. JOHNSON: The amendment amounts to this, I think, that this Bill will continue in force until a police force to be called the Civic Guard is established by law. That would prejudice the position of the future Dáil. We want to establish a police force, and we are quite prepared to prejudice a future Dáil to that extent, but we are not going to say that it shall be the Civic Guard or anything else.

Mr. O'HIGGINS: I see the Deputy's objection to stereotyping the name. I do not see much objection to omitting the words "to be called the Civic Guard."

Mr. DARRELL FIGGIS: Do I understand Deputy Johnson's point is that until new legislation comes, the force that remains in virtue of this legislation shall continue to be called the Civic Guard?

Mr. JOHNSON: Yes.

AN CEANN COMHAIRLE: The section as altered would read: "This Act shall continue in force until other provisions shall have been made by law for the establishment and regulation of a police force in Saorstát Éireann, and shall not in any case continue in force after the period of one year from the date of the passing hereof."

Amendment agreed to.

Motion made and question put: "That the new section, as amended, stand part of the Bill."

Agreed.

Sections 1 to 23, inclusive, put and agreed to.

Question: "That Section 24 be deleted," put and agreed to.

SCHEDULES.

First Schedule ("Maximum Establishment of Civic Guard") agreed to, and added to the Bill.

Motion made and question proposed: "That the Second Schedule ("Form of Declaration") be the Second Schedule of the Bill."

Mr. JOHNSON: On this schedule I want to ask the Minister whether the last three lines, "I do not now belong, and I will not while I hold the said office join, belong, or subscribe to any political society whatsoever, or to any secret society whatsoever," are essential at this stage, and whether the declaration would not be quite strong enough without them. I was going to raise the point as to the terms of employment or rather the relations between the Civic Guard and the State through the Ard-Chomhairle. But I am told that at least in the definition we have been using that that means the Chief Council. If that is so I take it that it means the Executive Council, and that being so, I think it is satisfactory. With regard to the last three lines, even for the first twelve months, these three lines are not necessary and may rather create friction than smooth matters over. The whole position of the citizen who is a policeman can be considered anew under the new legislation.

Mr. DARRELL FIGGIS: I referred to this matter yesterday in connection with another matter altogether. I am not quite sure I know what the words "political society" are. I do know the words "political organisation," and in that matter I am not greatly concerned. But in regard to the last six words, "or to any secret society whatsoever," I hope the Minister will adhere to the retention of these words in the declaration and in the oath. I would like to have them added to the Army oath as well. At any rate, I hope they will be retained in this oath.

Mr. O'HIGGINS: I feel myself, if this provision were not embodied in the declaration, that it would have to be dealt with by some disciplinary regulation. Deputies will understand at once the extreme inadvisability and extreme un-wisdom of allowing members of the police force which is instituted to serve and protect the people impartially and impersonally from becoming associated with

partisan politics of any brand while in their office, and as to the secret society aspect of the thing, it is clearly impossible to allow the servants of the State, the servants of the people, to join an organisation of the commitments of which we naturally and necessarily are unaware. These commitments may or may not conflict with the duties attached to the office; they may, or they may not, undermine the discipline of the Force, but what I submit is it is not a thing you can afford to have any doubt about whatever. You are entitled to say to the people serving you in an individual capacity that, "You must not join any society, or undertake any obligation of which we are unaware, and which may, for all the knowledge we possess, conflict, and conflict very radically, with the proper discharge of your duty." That is the view of the matter I take, and I feel that if this were not dealt with specifically and explicitly in the form of declaration members take it would have to be dealt with very specifically in disciplinary regulations.

But I think it is not too much to ask of an individual, coming into the service of the people in this capacity, that he should strip himself of an association of that kind, and that he should agree to stand aloof during his period of service free from partisan, political associations, and that he will agree also not to go into a society which may have commitments, and which at any rate will have commitments, that in the very nature of the case cannot be known to his employers—the people. It is upon these grounds that I thought it wise to insert this provision in the declaration, and submit it to the Dáil. If a strong view were expressed here—and when I say a strong, I mean strong in emphasis and strong numerically—for the deletion of these last lines, well, there is no use in my pretending that I would not be forced by that to take another view of the matter, but if that provision were to go out of the declaration it would have to come in in disciplinary regulations, I would consider that the position of the head of a police force would be impossible if its members were free to join political organisations, or to go into secret societies which would have commitments of which he would have no definite knowledge.

Mr. JOHNSON: I have no desire to

[Mr. Johnson.]

make it possible or to encourage Civic Guards or any other public servants to join secret societies. I am in the happy position of not knowing anything about secret societies, and I have often smiled when I have been approached by opponents of one secret society, telling me all about the enormities and the evil things of such a secret society, what tremendous power it has over this body and over that Government; and then I hear from another side about the tremendous power and influence of the opposite secret society. We are used to hearing about the Catholic Orangemen and the Orange Hibernians, and I think the same charges are made by secret societies of one kind against secret societies of the opposite persuasion, and most of them have political or religious persuasions. I am glad I know nothing about them; but I think that the reference here in the declaration to political societies is an unfortunate thing to put into a Bill, and in such vague phraseology it may easily cause a good deal of trouble. I do not believe in the attempt to prevent a Civic Guard having an opinion on public matters and of approving of the action of other people on public matters. That is practically what this prohibition would mean. It would mean, for instance, that a man could not subscribe to a society having for its object the abolition of capital punishment, because the object of that society is a political object, and might easily be construed into being a political object. It could only be accomplished by a political act. There are hundreds of causes which might be dealt with by political societies—societies having a political objective, and confining that political objective to one subject; and this clause is so framed as to make it impossible for a citizen who is a policeman to support or to belong to any such society. A regulation made by the Commissioner to prohibit active participation in partly political propaganda, or something of that kind, might be desirable, but it would require care in the working out, and this has not that care, and hence I think the last two lines ought to be deleted.

CATHAL O'SHANNON: Surely the Minister can see that the extent to which the term "political" can be stressed is so wide that the Civic Guard would be deprived of a great number of not only the

ordinary citizen's rights, but even an ordinary person's rights. The term could be applied to cultural associations. Some of these cultural associations might endeavour, either locally or nationally, to further their object by some kind of political action. Take, for instance, an association like the Gaelic League or an association for the study of the Irish language or literature; or take another, the Gaelic Athletic Association, which is for the promotion of national games. Now, it does not require any great stretch of imagination at all to describe some of these organisations as in some measure political in their object. No doubt they are composed of people of all parties and of people who belong to no parties in the accepted sense, but to some extent their object is, I think, political in a good and decent sense, or else some of the steps that some of them advocate to promote their object are political. You could take another which, at the moment, threatens to be decidedly political. I refer to certain temperance organisations. I wonder would the Minister regard these as political? I hardly think he would because he has given particular directions to the Civic Guard for the legal enforcement of certain measures of temperance; but the temperance people are undoubtedly, and will undoubtedly be, attempting to influence the decisions of the next Parliament by putting certain questions to candidates for the coming elections. If a Civic Guard man is a prohibitionist or a keen teetotaler, or if he were, for instance, a Pioneer, it might be construed that he belonged to a political organisation because that organisation was endeavouring to further its objects by political means. The words there in the declaration are so vague that they could be easily applied to all these and to many similar organisations and to associations with purely non-party objects. I think the Minister will see that the words in the declaration go too far.

Mr. MILROY: I was really surprised listening to the speeches of the last two speakers. At least, I would be surprised if I thought they were serious, but I cannot believe that they were serious. I cannot believe, for instance, that Deputy O'Shannon was serious when he said it would take no great stretch of the imagination to regard a Temperance Society as a political organisation. I

suppose it depends a good deal whether you belong to a Temperance Society or not, to have that particular stretch of imagination. The same Deputy made some suggestion with regard to the Gaelic League, which has hitherto been regarded as a non-political organisation, and the same applies to the Gaelic Athletic Association. So that we are not going to have politics introduced into this organisation. But I wonder do the Deputies who are opposing this realise the possibilities that might arise if Civic Guards were allowed to become active politicians, which this is tantamount to. We could imagine every barrack becoming a hotbed of politics. We could imagine every barrack consisting of a series of henchmen of some political organisation, where there would be no possibility of toleration, of freedom of speech, for the section of the community which did not agree with the politics of that particular Civic Guard barrack. I think that there is absolutely no argument, no logic, no reason, and no wisdom behind the idea that this should be deleted. I think the argument, in logic, in reason, and in wisdom, is all on the other side, and I think it would be a very grave error for the Government to allow a body of public servants, whose outstanding duty it is to maintain the peace, to become associated with one section of politics or another. How would Deputies who represent Labour like to have a Civic Guard barracks the entire members of which were vehement adherents of Deputy Gorey? How would Deputy Gorey like to have in his vicinity, or in his constituency, a series of Civic Guard barracks the occupants of which were vehement supporters of the Labour Party? How would either of these Parties like to have in their vicinity a Civic Guard barracks the occupants of which were vehement supporters of the only sane Party in the State, the Party sitting here? If we are debarred from this idea of keeping the Civic Guard, the custodians of the public peace, entirely clear of politics and aloof from all sectionalism or the various intricacies of politics, we are inflicting not only a grave injury upon the conception of what citizenship is, but also we are guilty, I think, of one of the most serious errors that we could possibly fall into in evolving a body of police who will do their duty equally to all citizens within the State.

Mr. JOHNSON: Deputy Milroy has missed the point. It is not an uncommon complaint. There was no suggestion even of allowing Civic Guard barracks to be hotbeds of political partisanship. Even the insertion of this will not prevent that. You are not going to prevent men talking politics because you do not allow them to join a political society. It is not the act of joining a society which makes a man a politician. He is generally a politician first. The point of the objection to this is that it is too vague, and that it will not accomplish the object that Deputy Milroy seeks, but it may prevent men attaching themselves to organisations which have been frequently classed as political societies. Deputy Milroy spoke of the Gaelic League and the Gaelic Athletic Association. I have only to refer you to the files of the *Belfast News-Letter*, the *Northern Whig*, the *Morning Post*, and probably the *Irish Times*, and even the Belfast Government's official pronouncements, to show that these are political societies. It is conceivable that even in the next twelve months some new aspirant for membership of the Dáil may become Minister for Home Affairs and may decide that these are political societies. My objection to this is that it is too vague, that it is not going to accomplish the purpose sought for, and it will prevent legitimate exercise of civic rights.

Mr. O'HIGGINS: It is objected that the words "political societies" are vague. I take it that politics in its essence either has to do with an attempt to change the existing Government, or with bringing pressure on the existing Government to make—

Mr. JOHNSON: No, no.

Mr. O'HIGGINS: Or amend, or repeal some law. I think the case for excluding members of the police force from participation in political activity lies in the fact that, for one thing, they have to serve, and serve with the same discipline and the same efficiency, succeeding Governments and, for another thing, they have the duty, more than other persons in the State, of seeing that the law is obeyed. Whether they like it or not, whether they think that a particular law ought to be repealed or not, that happens

[Mr. O'Higgins.] to be their duty, the thing for which they are paid, and I do not think the undesirability of members of a police force participating in political activity needs to be stressed. It was suggested that the Gaelic League and the Gaelic Athletic Association might be held to come under that head. Well, in point of fact, I do not think that the Deputies who urged that considered it a possibility.

Mr. JOHNSON: I certainly do.

Mr. O'HIGGINS: The Civic Guard have been taking part freely, with the full consent of the Government and of their Commissioner, in Gaelic Athletic activities, and I am glad to say are almost foremost in their eagerness to learn the national language. These are not political societies, and I think that the words are not vague, and are not likely to be misunderstood by anyone. If a case of honest doubt arises it can, no doubt, be resolved by consulting the Commissioner, or by the Commissioner consulting the Ministry for Home Affairs.

Mr. JOHNSON: This is to be an Act of the Oireachtas.

Mr. O'HIGGINS: Yes, but on the question of what is and what is not a political society. If a Civic Guard has any qualms of conscience about joining the Gaelic League, he will, no doubt, ask whether the declaration he has made excludes him, and similarly with the Gaelic Athletic Association. It is impossible to say, in any cast-iron way, what is a political society. Political societies, as Deputies know, come and go, and one set may exist to-day and another to-morrow, but the general sense is clear, that the object of those few lines is to exclude members of the police force from joining political organisations or secret societies. I think the mass sense of the citizens would heartily endorse that provision, and I see no case for changing it.

Mr. JOHNSON: The explanation is that the Minister wants us to enact phraseology which will vulgarise the term politics. It is commonly conceived as being a dirty game. I was hopeful that the Dáil would rather take the view that it is a noble game, if it is a game at all, and that it can be clean, healthy and noble, but when we are asked to assume

that a political society must be a society whose purpose is to put in Governments and to put out Governments, that is asking us to conceive politics as something merely sordid and ignoble.

Mr. O'HIGGINS: It has to do substantially with laws, and the making of laws, and the repealing and amending of laws, and bringing pressure on Governments to get them to do that, and, failing to do that, removing them altogether. These are its chief purposes.

Mr. JOHNSON: That is included in the term politics, but politics includes other activities that affect the National political health. I would hope that in any definition to be embodied in an act of the Oireachtas that that conception of the term politics will be in mind and not the lower and meaner conception.

CATHAL O'SHANNON: Just one other point, and it disposes altogether of the Minister's exclusion from politics of certain organisations. Take the Gaelic League. I am sure that the objects of the Gaelic League are as highly political as the objects of any political organisation inside or outside of this country, and have been so for a number of years. Not only that, but it is quite a likely thing, I believe, that locally the Gaelic League may, quite properly, take steps to put certain candidates into certain bodies, and, further—I think, only yesterday—that Deputies received a letter from the Gaelic League, which came to a political decision with reference to the new judiciary system. All these are in the proper sense of the word political acts, and the organisation is, in the best sense of the word, a political society, and the words as they are included in the declaration, if we couple with them the conception the Minister has just given expression to, and his intention to deal perhaps widely or generously with the claims of conscientious individual Civic Guardsman, show that it is his idea that it would be within the power of the Chief Commissioner, or whoever is in charge of the Civic Guards, to say, that such and such is a political society, within the meaning of the Act, and that such and such an organisation is not a political society within the meaning of the Act. The words in the Bill are "subscribe to any political society," and if you leave the interpretation of all that to the Minis-

ter or Chief Commissioner you will find you have gone very far away from the spirit that ought to animate this Bill.

Mr. JOHNSON: I move the deletion of the words "any political society whatsoever, or to."

Amendment put and declared lost.

The Second, Third, Fourth, and Fifth Schedules put and agreed to.

THE TITLE.

"An Act to establish in Saorstát Eireann, and regulate a Police Force to be called the Civic Guard."

CATHAL O'SHANNON: I move to substitute Garda Síochána for the words "Civic Guard," if that would be in order.

Agreed.

THE DAIL RESUMES.

The Bill, as amended, reported.

Report and Final stages ordered to be taken to-day.

Motion made and question put: "That the Bill be received for final consideration."

Agreed.

Motion made and question put: "That the Bill do now pass."

Agreed.

DEFENCE FORCES (TEMPORARY PROVISIONS) BILL, 1923.

FOURTH STAGE.

General MULCAHY: I propose that the Bill be received for final consideration.

Mr. DUGGAN: I move an amendment:—To insert after Section 206 a new section as follows:

"Any regulation of the Minister under this Act which involves a charge on public funds shall be made with the concurrence of the Minister for Finance."

That is merely a formal amendment, intended to cover an oversight in the drafting of the Bill. In two or three places in the Bill there are provisions which authorise the Minister to do certain acts, and which involve a charge on public funds. Obviously, no Minister can do such acts without the concurrence of the Minister for Finance.

Amendment agreed to.

Mr. FITZGIBBON: In Section 186, Sub-section 3, I think that some word must have been left out in the drafting, or left over for further consideration, because there is a blank in the printed section—"Produces to a District Justice or to a Peace Commissioner or Constable a route or requisition which he is not authorised to produce, or a document falsely purporting to be a route or requisition. . . ." Then there is a blank as if some word like order or proclamation had been left over for consideration. I do not know whether that is so or not.

General MULCAHY: The words should be "of emergency." They will be found in Section 186 Sub-section 1.

Mr. FITZGIBBON: The words "of emergency" must be inserted in the blank.

AN CEANN COMHAIRLE: We will take that in the next stage. It is only a verbal amendment.

Question put:—"That the Bill be received for final consideration."

Agreed.

General MULCAHY: I desire to move:—"That the Bill do now pass."

Mr. FITZGIBBON: I move that the words "of emergency" be inserted in the blank in Section 183 Sub-section 3, line 38.

Amendment put and agreed to.

Mr. JOHNSON: Before this Bill passes I want to repeat my objection to the passing of the Bill even for a period of twelve months, a Bill which embodies so long and detailed a scheme of organisation for the Army and the establishment of relations between the officers and men, Headquarters and the men, which I think whatever the intention, whatever the spirit may be in which they will be carried out, leave possibilities of abuse and the fixing of distinctions of caste. I have expressed my general objections to the Bill, and I do not want to go into details to any extent, but I want before it passes to say again that the passing of a Bill of this magnitude and this tremendous importance, in these circumstances, even for a period of twelve months, is most unsatisfactory and most objectionable. I want to express the hope that the scheme of organisation, the scheme of administration, the various grades of commissioned rank, from General downwards will not be taken as

[Mr. Johnson.]

establishing any vested interests for those officers of higher rank, in case the future Dáil decides upon a different scheme of organisation. We have in this scheme, Generals, Lieutenant-Generals, Major-Generals, Colonels, Commandants, Lieutenants and Second Lieutenants. I am informed that in the American Army, for instance, the highest rank is Major-General. I am not sure whether the title of General is in common use even in the British Army. I do not think that it has been abolished, but the Army Council some years ago was constituted of men of whom the highest grade was Major-General. We are beginning with Generals and Lieutenant-Generals above the rank of Major-General, which may mean nothing except title. However, it may mean vested interests in higher scales of pay, pensions and the like. I want just to put in this word of caution, that the next Dáil, in considering a future and permanent scheme of Defence forces, will not be bound by any regulation made in this Act which establishes this long tale of grades of commissioned officers, and that they will not recognise that they are bound in any way to conserve interests which may have been established by the establishment of this scale.

General MULCAHY: I thought that we made it clear during the other discussions on this Bill that all commissions held at the present time are temporary commissions, and that all commissions that would be held under the present Act would be temporary commissions also, that nothing like a permanent commission would be granted, or could be granted, until after the passing of the subsequent Defence Forces Bill which is contemplated. The present holders of either high or low ranks in the Army do not hold them as vested interests of any kind. They hold their present positions because in a period of national crisis, whether it was four years ago, or whether it was this year, they stood up to the duty that they saw was theirs. They undertook responsibility for the carrying out of certain work, work of responsibility and work of danger, when it was clear to them that the safety of their country demanded that they should undertake it. They have no vested interests, except the type of interest that

becomes vested in men who face responsibilities for their country, the type of vested interests that is common to men whose country turns to them and appreciates the fact that they have stood by it in danger and in difficulty. They quite realise that their vested interests in any position that they hold are in the affections or regard of their people, and that they will cease when they fail to stand up to the responsibilities that come to them day by day, and which will change perhaps with the change of days, and when they in any other way fail to secure that regard in which they are held by their people.

Because you have to-day men who are styled with military ranks that may be high compared with the size of other armies and the size of other countries, that does not mean that the country is suffering from anybody who claims to have a vested interest in anything. It simply means that the country has happily had a very large number of men who have stood by their duties and stood by their responsibilities in this period of grave danger to the country. In the matter of the possible or probable development of caste in the army or in the country, all I can say is that I do not understand what possible dangers or what possible developments are seen or foretold by the Deputies who have raised that particular question.

Question : "That the Bill, as amended, do now pass," put and agreed to.

DYESTUFFS (IMPORT REGULATION) REPEAL BILL, 1923.

FROM THE SEANAD.

AN CEANN COMHAIRLE: In our Standing Orders, when a Bill has passed through all its stages in the Seanad and has been received in the Dáil, it shall be set down for Second Reading. The Second Reading of this Bill must, accordingly, be moved.

Mr. DUGGAN: In the absence of the Minister for Industry and Commerce, I beg to move the Second Reading. The Bill is a model of brevity and clearness and is absolutely non-controversial. It consists of only two Sections.

AN LEAS-CHEANN COMHAIRLE took the Chair at this stage.

Mr. DUGGAN: It will be within the

knowledge of Deputies that the Dye-stuffs Act of 1920 was passed to protect the British dye-making industry against German competition. I think it is also generally admitted that the Germans were able to produce the best dyes obtainable. So far, we have no dye-making industry to protect, and the restriction on importation, so far from being an advantage, is a disadvantage to the Saorstát. I might also mention that a proposal to repeal the Act has been considered by the Fiscal Inquiry Committee, which has reported that it is satisfied that many advantages to trade and industry would accrue from the removal of restrictions on the import of dye-stuffs. I therefore move the Second Reading.

Mr. JOHNSON: I am glad that this motion has come forward, and that it will become law. It is, I hope, the first fruits of the work of the Fiscal Commission, and it is, at least, one sign that Commissions are not entirely useless. It will, perhaps, encourage Ministers to pay attention to the Reports of Commissions. I think that the benefits that may be derived from this will depend entirely upon the trade policy of Great Britain. I think that the Ministry is well advised in removing this obstacle in the way of Irish manufacturers getting advantage out of the changed relations between the two countries.

Question put and agreed to.

Further stages ordered to be taken to-day.

The Bill was put through its further stages and passed.

INDEMNITY BILL, 1923.

SECOND STAGE.

The PRESIDENT: I beg to move the Second Reading of this Bill, which comes naturally after the period of disturbance such as we have known. The first Section of it deals with restrictions on the taking of proceedings against certain persons for acts done, or purported to be done, for the purpose, or in the course of the suppression of armed revolt. It gives indemnity to those persons, and also to acts done by them in good faith or in the execution of their duty, or acts done by persons holding office in the service of the Provisional Government or the Government of Saorstát Eireann.

The second Clause deals with the provision being made for a Certificate to be supplied by an Executive Minister, certifying that the matters mentioned in the Section shall be conclusive evidence, and the third Section deals with the validation and review of sentences of military tribunals. It affords an opportunity for investigating sentences which have been passed, and it restricts any increase on those sentences. The Fourth Section deals with the definition of the words "Provisional Government." I move the Second Reading of the Bill.

Mr. DUGGAN: I second the motion.

Mr. JOHNSON: I take it that the Dáil is generally agreed upon the necessity for an Indemnity Bill. We have not had time to read this Bill and to find how far it extends and whom and what it covers. I, for one, agree that an Indemnity Bill is required and should pass. I hope it will not be suggested that we should go any further than agree to the principle, until we have had a proper opportunity of examining the clauses and finding out how far they extend and what they cover.

Question put: "That this Bill be now read a second time."

Agreed.

The PRESIDENT: I had this Bill included for Third, Fourth and Fifth stages to-day, but I think the statement of Deputy Johnson is a perfectly reasonable statement, and I should like to know if it would be agreeable that we could take the Bill to-morrow if there is sufficient time. If it was so desired, we could deal with one stage to-morrow, and take the other stages on Thursday, but I would like to have it finished on Thursday if possible; indeed, I would like to have it to-morrow, but I admit the reasonableness of the objections put forward, and, in view of the indulgence we got from the Dáil, I think it is the least that could be expected that we should meet them in regard to these next stages. There is not much business on the Paper to-morrow, and unless I could persuade Deputies to take the Second Reading of the Judiciary Bill, I do not know whether it would be possible to get consideration for all the Bills by the Seanad in sufficient time this week to deal with them here in the event of amendments taking place.

[The President.]

If that is so, I would like that we could keep in Session for a meeting one day next week up to Thursday. If not, I think we would have to ask the Dáil to sit on Saturday. It may not be necessary; but unless we get all the Bills returned on Thursday evening, or sit late on Friday, I am afraid it will be necessary to ask the Dáil to sit on Saturday, so as to receive and deal with any of those measures which would come back from the Seanad.

Mr. JOHNSON: On the question of receiving this Bill for Committee, it could be taken late to-morrow, so that we might have time, perhaps to-morrow morning, to consider it. I do not know what other business there is for to-morrow but I would agree, if this Bill is postponed now, to take its later stages to-morrow. On the question of a later sitting, it might be possible to make arrangements, as far as we are concerned, to meet the desires of the President. I do not know how best to do it. Saturday perhaps, or Monday, or perhaps later on towards the end of the week.

The PRESIDENT: So long as it would come before Thursday. Thursday would be the last day.

Mr. JOHNSON: Could we leave it a little later to decide?

The PRESIDENT: Yes, so long as Deputies appreciate our difficulties in the matter we are quite satisfied.

THE COURTS OF JUSTICE BILL, 1923.

FIRST READING.

The PRESIDENT: May I beg the indulgence of the Dáil for the consideration of a very earnest request to grant permission for the introduction of a Bill, mention of which has already been made, and the introduction of which is, in a sense, completing as far as possible in that direction the Constitution which we have adopted. I refer to the Judiciary Bill. I shall have to ask for the very generous patience of the Dáil, because, in the first place, I feel unequal to the proper treatment of a subject of such magnitude and importance, and secondly, because I feel and know that if the subject-matter with which I am attempting to deal were in more capable hands, that all the concessions which I crave would

be willingly assented to, though, perhaps, accompanied by some admonitions which would be certainly justified. It is unnecessary to point out here, or to remind Deputies, that the Judiciary, as it is and was known in this country, did not obtain that public approval which is an essential precedent for its Constitution; that while that was so the people of this country were unable to effect any change; and that for a lengthened period—that is to say, since the institution of popular representation and the repeated return of popular representatives pledged to change the administration of the country and its control—prejudiced the selection of the Judiciary, which during that period, although appointed by the Crown, was, nevertheless, made by a Government which did not command the confidence of the people of the country. Judges then entering on their important, and one might well say sacred, duties were nominated by alien authority, and, however conscientiously and justly they may have discharged their duties—granted even, for the sake of argument, that they were in direct intellectual succession from Solomon, they had not that popular authorisation which is a fundamental principle of democracy. There were then political associations which still further prejudiced that position of strict impartiality which is so necessary in the dispensation of justice. I do not think it necessary to refer to the fact that during the period under review the Bench in Ireland had, nevertheless, most distinguished and able jurists and conscientious lawgivers. If I might digress for a moment I should say that in the many changes inseparable from the Treaty position, we have endeavoured so to regulate these necessary alterations with as little disturbance and as free from offence as was possible in the circumstances. I hope that those who do not subscribe to the spirit of the change will give us credit for the consideration so shown, and that due appreciation of all the complexities will also be shown. May I also express my keen desire that I should say nothing which would tend to leave any trace of bitterness or make for any want of confidence in the weighty responsibilities which have fallen on us.

After the setting up of Dáil Eireann the position of the Judiciary became com-

plicated, at least in the terms applied to it—namely, “British Courts”; and I think I must again draw on the patience of the Dáil. Previous to the signing of the Treaty there were two Courts, which were termed “The British Courts” and “The Dáil Courts.” It will be immediately conceded that such a situation was not workable. I am particularly anxious to avoid any possible complications in this explanation, and would like to confine my remarks to the problem which confronts us, and which is no doubt the wish of every member of the Dáil to solve. The adoption of the Constitution made it necessary to reorganise our Judicial system.

I wish to make an appeal for the consideration of this Bill. We have passed the Constitution, and in it we have made provision for the proposals set out in this Bill. I have already asked many concessions from the Dáil, and Deputies have responded generously. Every reasonable request which I have made, and many unreasonable demands which I have had to make, have been conceded graciously.

This is a Bill drafted on the lines of the report of the Committee set up by the Government to advise the Government as to how best to give effect to the articles of the Constitution, and to provide for the setting up of national Courts of Justice in the Saorstát. I think it is advisable that I should read the letter which I addressed to the members of the Committee at the time when they were invited to assist the Government in the matter. The letter is dated the 29th January, 1923, and is addressed to Lord Glenavy, who was Chairman of the Committee, and it is as follows:—

“In the long struggle for the right to rule in our own country, there has been no sphere of the administration lately ended which impressed itself on the minds of our people as a standing monument of alien government more than the system, the machinery, and the administration of law and justice, which supplanted in comparatively modern times the laws and institutions till then a part of the living national organism. The body of laws and the system of judicature so imposed upon this nation were English (not even British) in their seed, English in their growth, English in their vitality. Their ritual, their nomenclature, were only to be understood by the

student of the history of the people of Southern Britain. A remarkable and characteristic product of the genius of that people, the manner of their administration prevented them from striking root in the fertile soil of this nation.

“Thus it comes that there is nothing more prized among our newly-won liberties than the liberty to construct a system of judiciary and an administration of law and justice according to the dictates of our own needs, and after a pattern of our designing. This liberty is established and the headline is set in the Constitution drawn up by the elected representatives of our people.

“It is provided by Article 64 of the Constitution that the judicial power of the Irish Free State (Saorstát Éireann) shall be exercised and justice administered in the public courts established by the Oireachtas by judges appointed in the manner therein mentioned.

“It is thereby further provided that the courts so established shall comprise:

“1. Courts of First Instance (Cuirteanna Cead-Cheime) which shall include:

“(a) a High Court (Ard-Chuirt) invested with full original jurisdiction in and power to determine all matters and questions, whether of law or fact, civil or criminal; and

“(b) Courts of local and limited jurisdiction with a right of appeal as determined by law.

“2. A Court of Final Appeal (Cúirt Aitheisteachta Deire) to be called the Supreme Court (Cúirt Uachtarach).

“For the full statement of provisions you are referred to Articles 64 to 72 (both inclusive) and Article 75 of the Constitution, whereof a print copy is sent you with this letter.

The first Government entrusted by the people with a mandate to give effect to the Treaty from which this Constitution has sprung finds amongst its earliest tasks of presenting to the Oireachtas the measures which will establish courts in fulfilment of the Constitution, and will fashion an administration of justice upon which the people will lean with confidence and affection.

“This task calls for grave consideration and much help in expert advice and suggestion drawn from diverse experience and varied knowledge. The Executive Council felt that it must have the

[The President.]

co-operation of a Committee so constituted as to serve it with that advice and suggestion in preparing the necessary measures. On behalf of the Executive Council, I have to thank you for so readily accepting the invitation to become a member of this Advisory Committee, under the Chairmanship of Lord Glenavy. The Government invites the Committee to act in accordance with the following terms of reference—viz.:—

“To advise the Executive Council of Saorstát Éireann in relation to the establishment in accordance with the Constitution of Courts for the exercise of the judicial power and the administration of justice in Saorstát Éireann and the setting up of the offices and other machinery necessary or expedient for the efficient conduct of legal business.”

“The Committee is requested to approach the matters referred to them untrammelled by any regard to any of the existing systems in this country, to examine the nature and classification of the legal business, both contentious and non-contentious, for the due discharge of which in the interests of justice, machinery and establishment should be provided by the State, and to consider and report upon the requirements of the litigants and other persons interested, and especially as to accessibility, efficiency, expedition and cost.

“Questions such as these of the centralisation or decentralisation of the Courts, the numbers and grades of judges and judicial persons and officials, and their respective qualifications for office, and manner of selection, the method of trial by jury, will be amongst the many subjects which must anxiously engage your attention.

“It is hoped that the Committee will find it convenient to enter upon its labours immediately, and with a view to that end you are invited to attend a preliminary conference at the Government Offices, Upper Merrion Street, on Friday, the 2nd prox., at one p.m. o'clock.”

That letter was signed by me in my capacity as President of the Executive Council. The committee comprised Judges of recognised position and long experience in the existing courts which we took over from the British, as well as

Judges who had been very successful in the work of the Dáil Courts. It included representative men of both the legal profession and the President of the Chamber of Commerce. It is a notable thing that the Committee arrived at an absolutely unanimous report. The report was circulated by the Government, and met with a chorus of approval in all directions. The Bill which I now propose to introduce is a Bill for setting up Courts exactly on the lines of the report of that Commission, so that this Bill may be said to have behind it the unanimous recommendation of an expert Commission, and as far as one has been able to judge by the many expressions of opinion in the Press and elsewhere the hearty approval and endorsement of the public. The Government consider it very important to have National Courts of Justice in existence at the earliest possible moment in order that the people may have the most complete confidence in the administration of the law, and may be thereby led to respect for the law which previously existing circumstances did not inspire.

The leading features of the measure are provision for expeditious and economical disposal of legal business, with the advantage of local hearings for the ordinary run of litigation of the country. In future, for actions involving money up to £300, people will not be taken away from their business in the country and kept hanging about in Dublin. The Circuit Court is an innovation in one sense, though in another not, for it reproduces the Circuit Court of the old Dáil Courts System, which was found attractive to litigants. Small debts will, under this Bill, be recovered promptly in the Courts of the District Justice, while a Court of Appeal will be constituted which will be the final Court of Appeal in the land. If we get this Bill through, it will be possible to have the procedure and the business of these Courts organised during the summer, so that they may be able to start in the autumn. If that is not possible, then the new Courts could hardly be anticipated before next year.

As I have said, I have made many requests to the Dáil, and this may be the last. I put that, not to influence your sympathy so much as to ease your mind. The Dáil is within its rights, within its privileges, and within its generosity in

refusing this request. But I put the request forward because I feel that it is due to the Dáil itself that, having accomplished so much, and it has accomplished much, still further to mark the great advance which it has made to secure the confidence of the people in their Parliament. I put this forward in the highest national interest to ensure the most priceless blessing which any Parliament can hope to secure, the cordial acquiescence of its people in their legislative assembly, an acquiescence which is attainable only by limiting complaints and by helping in the construction of institutions which will command their highest confidence. I beg to move for leave to introduce this Bill.

Mr. BLYTHE: I second the motion.

Mr. JOHNSON: The Minister has introduced another Bill of very great importance. He has thrown himself upon the generosity of the Dáil, and, of course, it is very hard to resist an appeal such as that which he has made. But until the Bill is before us I think that we must harden our hearts, at least until then, and probably even afterwards. While I have no doubt that it is of very great importance to the mind of the Minister that this Bill should become law, so that the new Courts could be set into operation during the summer, I do not think that is sufficient justification to us to make us promise that such a Bill should pass without discussion. Ministers have their responsibilities, but we also have responsibilities, and we would be answerable along with the Ministry; we would be responsible for the measure when it becomes law to the extent that we supported it. If we allow a Bill of this kind to pass through without discussion, as we have allowed two other Bills which were temporary, we have to share the responsibility for that acquiescence. We cannot make a Bill of this kind a temporary provisions Bill, and I do not think that a Bill of this kind, which, I assume, is of considerable length, requiring careful consideration, should be pressed upon us. When we have seen the Bill we will be better able to express a more definite opinion, and I think that it is well that, even at this stage, we should not hold out a promise that there is general acceptance of this proposition that this Bill should pass through without full consideration.

The PRESIDENT: I would like to say that I think that is perfectly fair. We have three days—Wednesday, Thursday, and Friday. We expect to get the League of Nations Bill from the Seanad, and the Suspension of Valuation Bill, which are non-contentious; and there may be introduced the Licensing Bill. I have not seen it yet. There is the Indemnity Bill, then, and this Bill, so that I should say that we would have two whole days for dealing with this. I cannot ask for anything more than Deputy Johnson is inclined to give—that he will give the matter consideration when he reads the Bill. I think it is perfectly reasonable, and I will undertake to have the Bill circulated without delay.

Motion put and carried.

AN LEAS-CHEANN COMHAIRLE:
When do you propose to take the Second Reading?

The PRESIDENT: If we get out copies of the Bill to-night, perhaps we might take the Second Reading to-morrow. Deputies can hold it up on the Committee Stage if they think well, but it would leave the road open for the Committee Stage on Thursday.

Mr. FITZGIBBON: I do not think there would be any objection to having the Second Stage taken at any time, because I do not suppose that there will be any controversy as to the principles of this Bill. We have all seen a Judiciary Committee Report. But I do suggest that to run the Committee Stage through at short notice might be very dangerous, because when you have gone wrong in setting up your Courts, or made mistakes in details about them, it requires legislation to set it right again, and great injustice and great expense may be caused to litigants from blunders made in the beginning. I think the sooner we see this Bill in print the better. If there were anything that ought to be considered in detail, not necessarily by us, but by the people who know what is to be done in setting up and running Courts, the innumerable details in which blunders may be made through haste, and the consequent enormous expense, I think it will be realised that it would be rash to try to force this Bill through, or to get it through without force, in twenty-

[Mr. FitzGibbon.]

four or forty-eight hours, or three days. I think that it would be quite possible, if this Bill were read a second time, for the country to turn its attention to its details, and probably an enormous number of obviously necessary and agreed amendments could be produced, and the Bill would be put through at very short notice when the new Dáil assembled. I have not seen the details of the Bill. I do not know whether it is a Bill that could possibly be put through in the short time at our disposal; but if not, I do not think much time would necessarily be lost, because probably a better or equally good Bill could be produced and put through on short notice after the new Dáil assembled, and the new Courts would be set up and in full swing by the time the ordinary Court business starts after the summer, which is usually in October. I think it would be quite possible to give full consideration to this Bill as printed, to have amendments agreed and ready, so that the whole thing could be put through at short notice, but after careful consideration when the new Dáil came into its own. As I say, I reserve judgment on that until I have seen the Bill.

Professor MAGENNIS: We have all read and carefully studied the report of that Committee to which the President referred. Those who are in the Dáil who are interested in the measure are well acquainted not merely with the principle, but with most of the suggested reforms and the lines upon which they are to proceed.

AN LEAS-CHEANN COMHAIRLE: We cannot have a discussion on this question, which is a matter of fixing the date of the Second Reading.

Professor MAGENNIS: I was addressing myself to that. Perhaps my roundabout circumlocutory method does not fall in with your ideas as to order. If so, I apologise for myself; it is with that I was going to deal.

AN LEAS-CHEANN COMHAIRLE: You can proceed.

Professor MAGENNIS: I was going to say that in view of that it would be quite easy for us to take the Second Reading this week, for although there is, as we have already seen by experience, a considerable difference between the report, as a report, and the draftsman's application of it in terms of sections and sub-sections, yet, in this case there can hardly be much room for departure or for alteration, and so we ought not, I think, lay ourselves open to any fair accusation of hasty legislation in this matter, if we carry the discussion no further than to pass the Second Reading. But I join thoroughly with Deputy FitzGibbon in deprecating going through the Committee Stage of such an important measure in a hurry, because this is quite as important for the future of the nation as any measure we have yet undertaken the consideration of. There is a further thing to be borne in mind. Two of the remaining days, Wednesday and Friday, happen to be days set apart for private business, and it would be necessary for the Government to move to take that over for the greater supply of time for the important measures, so, it seems to me, the wisest course is that we should get the Bill, study it, and have a fair idea at least of how far it conforms to the impression we had derived of the measure from a study of the report upon which it is founded, and at that stage we would be in a better position to decide how much further, if at all, the Bill can proceed.

Question put:—"That the Bill be read the first time."

Agreed.

Second Reading ordered for Wednesday, 1st August.

AN LEAS-CHEANN COMHAIRLE: Deputy Gorey is not present to raise the question on Damage to Property.

The Dáil adjourned at 6.5 p.m.

DÁIL ÉIREANN.

DE CEADAIOIN, 1adh LUGHNASA,
1923.

(Wednesday, 1st August, 1923.)

Cromadh ar obair an lae ar a 4 p.m.
Bhí an Ceann Comhairle, Micheál
O hAodha, sa Chathaoir.

GEISTEANNA—QUESTIONS.**[ORAL ANSWERS.]****DAMAGE TO PROPERTY (COMPEN-
SATION) ACT—POSITION OF
CLAIMANTS.**

GEAROID MAC GIOBUIN asked the Minister for Finance whether it is absolutely necessary that claimants under the Damage to Property (Compensation) Act, 1923, who have already served notices in compliance with the Resolution of Dáil Éireann, dated November, 1922, upon the Secretary, Ministry of Finance, the Secretary of the County Council or Town Clerk of the County Borough Council, and the Clerk of the Crown and Peace of the area affected, should now re-serve the same notices in triplicate, as prescribed by the Minister for Finance, under Rule, dated July 9th, 1923, made in pursuance of Section 4 of the above Act, or whether he will authorise such claimants to take up the copy served on the Secretary or Town Clerk of the local authority and serve it upon the State Solicitor, leaving the services already made upon the Ministry of Finance and the Clerk of the Crown and Peace to stand as sufficient compliance with his Rule.

The PRESIDENT (Minister for Finance): The Order to which the Deputy refers is intended to apply only to cases in which application is made after the passing of the Act. I had, before the Act was passed, requested each local authority to transmit to the State Solicitor concerned the copies of applications lodged with it in compliance with the public notice issued on 21st November, 1922, pursuant to the Resolutions of Dáil Éireann.

CIVIL SERVANTS' SALARIES.

DARGHAL FIGES asked the Minister for Finance whether he is aware that certain officers in the Civil Service receive salaries less by 5 per cent. than their colleagues in the same classes in the Service; that serious discontent is prevalent in the Civil Service owing to the persistence of the Minister in contriving to apply the inequitable differentiation of 5 per cent. on certain salaries? And if, in view of the admitted higher cost of living in Dublin, he will have this differentiation removed?

The PRESIDENT: The differentiation to which the Deputy refers was in existence before the change of Government, and cost of living, in respect of which I may remind the Deputy that we are paying a higher rate of bonus, was not the only consideration on which it proceeded.

Mr. DARRELL FIGGIS: I ask if the President would reply to the latter half of my question, which I think has escaped his notice?

The PRESIDENT: No, I think it is answered.

Mr. DARRELL FIGGIS: The question was, it being admitted that the differentiation did exist, I ask whether the differentiation, for reasons that have since transpired, would be removed in the interests of justice.

The PRESIDENT: There is absolutely no proof that there was differentiation in the cost of living other than the one discovered since, and that fact must have been before the minds of the British authorities when they made this particular deduction.

LADY'S ARREST AT KILLALA.

TOMAS O CONAILL asked the Minister for Defence what was the reason for the arrest of Miss Bridget Curran, of Killala, who was arrested on April 2nd, 1928, and is now detained in the North Dublin Union, No. 299; whether any charge has been or is being preferred against her, and, if not, whether he is prepared to order her release.

MINISTER for DEFENCE (General Mulcahy): Miss Curran was arrested on grounds of assisting Irregulars by carrying despatches and doing intelligence work.

[Minister for Defence.]

She has not been formally charged. She has signed the usual form of undertaking, and, in view of this and of the peaceful state of her district, she was released yesterday.

ARRESTS IN CO. KILDARE.

AODH O CULACHAIN asked the Minister for Defence if he is aware of the arrest by National troops of Christopher Dignan, James Kelly, and Patrick Woods on the 29th April, 1923; of Patrick Byrne, James Gosling, and Edward Vaughan, on the 21st June, 1923; and of James Granger (by C.I.D. men) on the 22nd June, 1923, all resident in Kiltel, Rathmore, Co. Kildare. Whether it is true that no charge has been made against these men, and, as their dependants are deprived of maintenance during their detention, will the Minister release them immediately.

General MULCAHY: Definite charges have not been formulated against Dignan, Kelly, Woods and Granger, but it is not the present intention to release them. It is proposed to put Byrne, Gosling and Vaughan on trial before a Civil Court on a charge of robbery.

ARREST AND COURT-MARTIAL TRIAL.

CATHAL O SEANAIN asked the Minister for Defence whether he can state the reasons, if any, why James Lynch, Trim, who was arrested and tried by Court-martial recently in company with the prisoner Crieghton, released on July 18th, has not yet been released; and whether the Minister will now cause this prisoner's release.

General MULCAHY: A decision has just been reached in the case of Lynch. His release has been recommended, and will take place forthwith.

CATHAL O'SHANNON: Can the Minister explain now why he has not been released already when he was found not guilty by the Court-martial?

General MULCAHY: Because the case had not been satisfactorily investigated from the point of view of the military authorities.

LEIX, COMPENSATION PAYMENT.

LIAM O DAIMHIN asked the Minis-

ter for Defence whether he is aware that £50 was granted to James Monahan, Keelough, Rushall, Leix, as compensation for the death of his wife, which was caused by being run down by a military motor lorry at Larry's Cross, Mountrath, on March 29th, 1922; whether he has received an appeal from her husband against this very miserable grant, and whether or not, and when, he will be in a position to issue his final decision on this appeal.

General MULCAHY: I received the appeal transmitted by the Deputy. An additional grant of £20 has been made to Mr. Monahan.

OFFALY COMPENSATION PAYMENT.

LIAM O DAIMHIN asked the Minister for Defence whether he is aware that £10 was granted the father of Edward Donoghue, Sandymount, Birr, Offaly, as compensation for his death, which was caused by a soldier of the National Army, at Birr Castle, on August 29th, 1922. Whether he has received an appeal for the revision of this small amount, and if he can state when he will be in a position to issue his final decision.

General MULCAHY: I have received an appeal transmitted by the Deputy. I expect that a final decision in the matter will be taken very shortly.

DAMAGE TO PROPERTY ACT.—ALTERATION OF DATE.

Mr. GOREY: I regret that I was not here yesterday when the matter I gave notice of was reached. I was over in the Seanad, listening to the Land Bill debate. I beg to give notice that I will raise it this evening.

AN CEANN COMHAIRLE: The matter referred to by the Deputy is as to the advisability of introducing legislation for altering a certain date in the Damage to Property Act.

THE LICENSING BILL.

Mr. ALFRED BYRNE: Will the President say whether it is his intention to introduce the Licensing Bill to-day or to-morrow, and will he say also if there is anything of a contentious character in it?

The PRESIDENT: I find it very difficult to answer as to what is meant by the word "contentious" in that case. Some people may regard something as contentious that other people may regard as non-contentious. If you ask my opinion about the Licensing Bill, I would say it is non-contentious. I do not know that other people would subscribe to that view. I think the Minister for Home Affairs may ask leave to introduce the Bill this evening.

PASSING OF PROPERTY TO PROVISIONAL GOVERNMENT.

Mr. DARRELL FIGGIS: May I take this opportunity of asking you, A Chinn Chomhairle, or the President, whichever may be concerned in the matter, if, having regard to the fact that the British Government has published certain documents with regard to the passing over of property and certain regulations made during the period of the Provisional Government, facsimiles of these papers can be published and issued to Deputies here in Ireland, so that they might have them without delay?

The PRESIDENT: I see no objection to that, and I will endeavour to have them published.

PUBLIC SAFETY (EMERGENCY POWERS) BILL, 1923.

SEANAD AMENDMENTS.

MINISTER for HOME AFFAIRS (Mr. Kevin O'Higgins): The Public Safety Bill, with certain amendments, has been passed by the Seanad, and if Deputies would agree to take it before entering upon other matters on the agenda I shall be glad. I propose to move that the Dáil accept the amendments made by the Seanad.

Mr. JOHNSON: We have only had these now handed round, and inasmuch as they deal with very important matters I submit it is not in order to ask the Dáil to take amendments of this kind without due notice.

Mr. O'HIGGINS: I do not propose to move the amendments *en bloc*, but to move them, if the Deputy so wishes, one by one. I am sure the Deputy understands the exact effect of the amendments on the Bill.

Mr. JOHNSON: That is not the point. The point is that we are asked by the Minister to allow the business of the day to be suspended for the purpose of introducing amendments of an important character upon a Bill which has already passed the Dáil. The Standing Order reads as follows:—

"Where a Bill transmitted from Dáil Eireann to Seanad Eireann shall have passed through all its stages in Seanad Eireann, and shall have been sent back to Dáil Eireann with amendments made in Seanad Eireann, or, in the case of Money Bills, with recommendations made by Seanad Eireann, such amendment or recommendations, as the case may be, shall be printed and circulated to Teachtaí of Dáil Eireann, and Dáil Eireann shall, in Committee, consider and report on such amendments, as the case may be."

I submit the procedure, as required in the case of amendments coming from Seanad Eireann, is that they should come up as on Committee Stage in the ordinary course of a Bill which has passed Second Reading.

AN CEANN COMHAIRLE: Is the Deputy's objection an objection to taking the Seanad amendments as the first order to-day?

Mr. JOHNSON: My objection is to taking them without regular notice.

AN CEANN COMHAIRLE: That is to say, if taken only with regular notice they could not be taken until Friday. Is that the position?

Mr. JOHNSON: That is for you to decide. That is my contention.

AN CEANN COMHAIRLE: That is the strict interpretation of the Standing Order unless the Standing Orders are suspended or some agreement is come to to take these amendments, if not immediately, then on shorter notice.

Mr. DARRELL FIGGIS: I suggest that as we have only just received these amendments an effective compromise might be made that would meet Deputy Johnson, and I imagine might be satisfactory to the Minister for Home Affairs; that is, that if these amendments were printed and circulated we could consider them the first thing to-morrow. We have

[Mr. Darrell Figgis.]

only just received them, and have not had time to read them.

MR. O'HIGGINS: I will read Standing Order 97, and I wonder if it bears on this matter:—"If a message from Seanad Eireann requires any action to be taken or thing to be done by Dáil Eireann it shall be set down on the Order Paper next thereafter prepared, and shall be considered accordingly, provided that in case of special urgency Dáil Eireann may consider such message at an earlier period."

MR. JOHNSON: That Standing Order deals with messages, and not with Bills.

AN CEANN COMHAIRLE: A Bill is always accompanied by a message.

MR. JOHNSON: There is a special Order dealing with messages, and a separate Order dealing with Bills.

AN CEANN COMHAIRLE: Yes, that is the case.

MR. O'HIGGINS: I move that the Standing Orders be suspended to enable the Public Safety (Emergency Powers) Bill, 1923, to be considered by the Dáil, with the amendments made in the Seanad.

MINISTER FOR LOCAL GOVERNMENT (Mr. Blythe): I second the motion.

MR. JOHNSON: I want to raise a question of Order on this matter. The Minister has moved that the Standing Orders be suspended. I submit that that is a motion that is not acceptable, and that cannot be accepted, except by general consent. Standing Orders are made for the conduct of the business of the House, and members are presumed to be acting under these Standing Orders. Members are provided with Order Papers informing them of the business of the day, and it is not competent, I submit, for any member of the House to move that the Standing Orders be suspended. It is only in special circumstances, when there is no opposition, and when there is general consent, and even it is doubtful then whether Standing Orders ought to be suspended; but certainly only when there is general consent are Standing Orders to be suspended. Otherwise, by the vote of any temporary majority any Bill can be rushed through; anything can be done in the House if a

temporary majority is capable of carrying an order for the suspension of Standing Orders. I submit it is quite incompetent for any member of the House to move the suspension of the Standing Orders, or that that motion, if carried, could be given effect to. Standing Orders are the rules regulating the business of the House and are equivalent to an act of the Dáil, and cannot, I submit, be suspended merely at the call of a member, even though he be a Minister, on no notice, or any sudden motion that might be sprung upon the House.

AN CEANN COMHAIRLE: The Standing Order prescribes: "In cases of urgent necessity, of which the Ceann Comhairle shall be the judge, any Standing Order or Orders of Dáil Eireann may be suspended for the days' sitting on motion duly made and seconded with or without notice, provided that such motion has the support of the majority of the Teachtaí of Dáil Eireann who are qualified to vote."

That provides for a motion made without notice, provided that there be a case of urgent necessity. The Minister, I take it, regards this as a matter of urgent necessity.

MR. O'HIGGINS: The consideration of the Bill with the amendments from the Seanad is a matter of urgent necessity. There are many thousands of prisoners in military custody. They have been in military custody for months, and there was no statutory authority for their detention. They were detained under the common law powers inherent in the military, arising out of the military situation, and arising out of the condition of war or armed revolt. When and if the courts decide that a condition of war or armed revolt no longer exists, the position would be that we would not have legal or statutory power to detain these prisoners. I submit that the immediate and indiscriminate release around the country of these prisoners, who have been waging war on the State by the most ruthless methods, and who have been waging war on the economic life of the country by all the means in their power, would be a great public disaster, and would have reactions on the peace, security and commercial life of the country for which the Dáil would be slow to take responsibility. The consideration of this Bill, with the amend-

ments made in the Seanad, is, therefore, a matter of urgency, a matter of extreme urgency, which the Dáil in its capacity as representing the people of this country, and as guardians of the interests of this country now and in the future, cannot afford to ignore. I claim that there is abundant cause and excuse for a suspension of the Standing Orders to enable this Bill to be considered.

Mr. JOHNSON: The argument of the Minister amounts to this, that he desires a certain Bill to become an Act within a given time to make his actions legal and to overcome the judgments of the Courts, and that that is a matter of urgent necessity calling for special procedure on the part of the Dáil. It may be an urgent necessity in his view to have certain acts covered by the law, but it is not a matter of urgent necessity from the point of view of the procedure of the House. We have had certain amendments circulated within the last half-hour. Bear in mind that the Dáil has passed the Bill, has considered its judgment upon that Bill, and decided that that Bill was a perfect measure as it proceeded from this House. The majority of the Dáil were satisfied with the measure as it left this House. It then goes to the Seanad; the Seanad alters it, considers that we did our work badly, that the Ministry and its majority did not do its work satisfactorily. Then the Bill has to come back, and without notice the previous work of the Dáil is to be altered simply because he considers it a matter of urgent necessity. I want to call attention to the Standing Order

(Order read.) Unless that proviso is complied with I submit that it is not competent even to receive—certainly not competent to suspend the Standing Order—under the Standing Orders that we are acting.

AN CEANN COMHAIRLE: The question is whether the motion should be received to suspend the Standing Orders for this particular purpose. The motion cannot be received and put from the Chair unless a case of urgent necessity is made, or unless the Ceann Comhairle shall judge that the case is one of urgent necessity. The question of urgent necessity is one which has not to be considered in relation to an individual. In this case the Minister for Home Affairs, who is, by virtue of his office, responsible for the maintenance of public order in the country, makes as a case of urgent necessity that amendments from the Seanad to a certain Bill shall be considered this evening. That has been done before; that is to say, amendments from the Seanad have been considered without due notice given. The Minister's plea, when we consider the duties which devolve upon him, cannot be ignored by me as the Ceann Comhairle. I think, therefore a case has been made out for the putting of this motion. The motion, therefore, is: "That the Standing Orders be suspended to enable the Seanad amendments to the Public Safety (Emergency Powers) Bill to be considered before we take up the business on the Order Paper."

Motion put.

The Dáil divided: Tá, 42; Níl, 14.

Tá.

Liam T Mac Cógair.
Donchadh O Guaire.
Seán O Maolruaidh.
Seán O Duinnín.
Micheál O hAonghusa.
Seán O hAodha.
Seamus Breathnach.
Pádraig Mag Ualghairg.
Peader Mac a' Bháird.
Darghal Fíges.
Deasmhumhain Mac Gearailt.
Micheál de Duram.
Seán Mac Garaidh.
Risteárd O Maolchatha.
Pilib Mac Cosgair.
Domhnall Mac Cárthaigh.
Maolmhuire Mac Fochadha.
Earnán Altún.
Gearóid Mac Giobúin.
Liam Thrift.
Eoin Mac Néill.

Liam Mag Aonghusa.
Pádraig O hOgáin.
Pádraic O Máille.
Seosamh O Faioleacháin.
Fionán O Loingsigh.
Seamus O Cruadhlaioich.
Criostóir O Broin.
Caoimhghin O hUigín.
Proinsias Bulfin.
Tomás Mac Artuir.
Liam O hAodha.
Proinsias Mag Aonghusa.
Eamon O Dúgáin.
Peadar O hAodha.
Seamus O Murchadha.
Liam Mac Sioghaire.
Tomás O Domhnaill.
Earnán de Blaghd.
Uinseann de Faioite.
Seamus de Burea.
Micheál O Dubhghaill.

Níl.

Tomás de Nogla.
Riobárd O Deaghaidh.
Liam de Róiste.
Tomás Mac Eoin.
Seoirse Ghabháin Uí Dhubhthaigh.
Liam O Briain.
Tomás O Conaill.

Aodh O Cúlacháin.
Seamus Eabhróid.
Liam O Daimhín.
Cathal O Seanáin.
Domhnall O Muirgheasa.
Risteárd Mac Fhoirais.
Domhnall O Ceallacháin.

Motion declared carried.

Mr. JOHNSON: May I ask, A Chinn Chomhairle, does that fulfil the condition?

AN CEANN COMHAIRLE: It fulfils the condition actually under the Standing Order. Eighty-five Deputies, including myself, have taken their seats. One—Deputy Hales—is dead; three—Deputies Brennan, Duffy and Liddy—have resigned, making the membership qualified to vote under this Standing Order eighty. Forty-one, therefore, is the requisite number.

The PRESIDENT: May I raise a question in view of the fact that that decision has been given? The Constitution provides under Article 22 that all matters to be decided in the Dáil are to be decided by a majority vote. A Standing Order cannot, in my view, make a provision which interferences with the condition that is laid down in the Constitution. So that the question might not become a precedent, I would like to register my own personal conviction that

the Standing Order contravenes, to some extent, the Constitution, and is, in consequence, of no effect. Lest it be taken as a precedent and rule the proceedings of the Dáil in future, I think it is due that I should make that interruption.

AN CEANN COMHAIRLE: Article 22 of the Constitution says:—

All matters in each House shall, save as otherwise provided by this Constitution, be determined by a majority of the votes of the members present, other than the Chairman or presiding member, who shall have and exercise a casting vote in the case of an equality of votes. The number of members necessary to constitute a meeting of either House for the exercise of its powers shall be determined by its Standing Orders.

Mr. JOHNSON: On the question of precedent, the Standing Orders are made by the Dáil. If the Standing Orders can be altered by any momentary

majority, then it is folly to have any Standing Orders. We are asked, in that case, to simply throw the procedure of the House at any time into the hands of the temporary majority. If without notice business of an important character can be transacted, the proceedings of the House become farcical. There is no use in having Standing Orders if these Standing Orders can be suspended by any temporary majority. I take it that the intention in having Standing Orders is to lay down rules of procedure, so as to enable the House to conduct its proceedings in a proper way. If those Orders can be cancelled by any chance majority, then we had better cancel the Standing Orders and call them Debating Society rules.

Mr. GAVAN DUFFY: May I draw your attention, A Chinn Comhairle, to Article 20 of the Constitution, which provides that each House shall make its own rules and Standing Orders. I submit that that enables the House to make an exception within the meaning of another provision in the Constitution referred to in Article 23.

The PRESIDENT: With regard to the question raised by Deputy Johnson, I say that the Standing Orders are, notwithstanding, sufficient to provide for such cases as he has mentioned and that is that the Dáil would be at the mercy of a majority. The Standing Orders can so provide, and this Standing Order which has been suspended is one which provides for the case such as quoted by him, that a Minister or a Deputy, can move the suspension of the Standing Orders on an urgent matter, and the decision on the question of urgency rests within the discretion of the Ceann Comhairle. I do not think that there is anything in the point raised by Deputy Duffy which calls for comment.

AN CEANN COMHAIRLE: There is a provision in this Standing Order which has been availed of to suspend the Orders of the Day and the Standing Orders with regard to a matter of urgent necessity. The question as to whether the Standing Order which prescribes that a motion must have the support of the majority of the Teachtaí of Dáil Éireann who are qualified to vote is in contravention of Article 22 of the Constitution, is one which might arise and upon which a

decision would have to be given if this motion had been carried by a majority smaller than a majority of 41 votes for the motion. When the Standing Order was passed I did not advert, and I think nobody in the Dáil adverted, to Article 22 of the Constitution, but on reading it, it would seem that the Standing Order does contravene the Constitution. If that were held of course the Constitution would override the Standing Orders, just as the Constitution would override legislation which would be in contravention of the terms of the Constitution. However, in this particular a case of a majority has been got which satisfies the Standing Order, without prejudice to the question of the validity of the Order itself, considered in relation to the Constitution.

Mr. JOHNSON: Would you inform the Dáil again what is the motion that has been moved by the Minister in regard to these amendments?

AN CEANN COMHAIRLE: "That Standing Orders be suspended to enable the Dáil to proceed to the consideration of the Seanad amendments to the Public Safety Bill before proceeding with the Orders of the Day." The Orders of the Day are on the printed sheet. In accordance with the motion, therefore, the Seanad amendments to the Public Safety (Emergency Powers) Bill can be proceeded with immediately. Under the Standing Orders the Dáil will go into Committee for their consideration.

DAIL IN COMMITTEE.

Mr. O'HIGGINS: There are twelve of these amendments. Amendments 1 and 2 are identical in their effect. Amendment 1 is to delete in Section 1 all after the word "shall," line 42, to the word "officer," line 43, and to substitute therefor the words "certify in writing that he is satisfied." The paragraph (a) would then read:—"In respect of whom such Ministers shall certify in writing that he is satisfied that there is reasonable ground for suspecting such person of being or having been engaged or concerned in the commission of any of the offences mentioned in Part I. of the Schedule to this Act." The amendment moved in the Seanad deletes all reference to a report from a responsible officer, and places the responsibility definitely and

[Mr. O'Higgins.]

directly on the Minister himself. As the paragraph stood it would have been sufficient for a Minister, without claiming direct personal knowledge of the case, to say that a report had been received from a responsible officer, and that that was good enough for him. Senator Douglas, who moved the amendment, contended that that was unsatisfactory; that in a matter so grave as the detention without trial of a citizen the Minister should put his hand to a statement that he himself was definitely satisfied that there were reasonable grounds for suspecting the persons concerned of the commission of some of the offences mentioned in Part I. of the Schedule to this Act. He, therefore, moved to delete a reference to the responsible officer and to substitute for that a certificate over the name of the Minister that he was satisfied that there was such reasonable suspicion. I move: "That the Dáil agree with the Seanad in the amendment."

Mr. JOHNSON: I beg to move that we add after the word "satisfied" "from reports received in writing from responsible officers." The object of the amendment is to ensure that the Minister's grounds for believing that a person should be imprisoned are that he is suspected of being engaged in the commission of certain offences, that he should state in writing that the grounds upon which such suspicion as he is prepared to certify in writing have some real basis in reports received from responsible officers, which reports can be referred to. It is not enough that the Minister should say that he is satisfied, or even that he should certify in writing that he is satisfied, unless we make it conditional that he has good grounds for so certifying, and that those grounds shall be reports received in writing from responsible officers. It may be an improvement to throw the responsibility upon the Minister for declaring that a person is suspect, but I think that the responsibility that he undertakes should have its basis in written reports, and mere verbal indications that so and so and so and so are not people who should be allowed to remain at large is not sufficient. I contend that there must be available somewhere in writing a statement which is producible in a Court that the mere written certification of a Minister, possibly having no basis

on evidence of any kind, or even any basis in suspicion of a responsible officer, should not be allowed to pass through.

AN CEANN COMHAIRLE: What would be the difference between that amendment if carried and the Bill as it stood? Is it not a direct negative?

Mr. JOHNSON: I think not. The Bill as it stood said: "it shall be lawful for an Executive Minister to order the arrest and detention in custody of any person in respect of whom such Minister shall have received a report from a responsible officer." The Seanad amendment deletes these latter words respecting "a responsible officer," and substitutes that the Minister shall "certify in writing that he is satisfied." My desire is to ensure that the certificate in writing shall be made, and that such certificate shall be based upon a report in writing from a responsible officer. There is nothing in the Bill, as it went from the Dáil which said anything about a report from a responsible officer in writing.

AN CEANN COMHAIRLE: The Seanad amendment deletes the provision as to the report from a responsible officer. The amendment Deputy Johnson proposes now simply puts back that in effect. "A report received in writing from the responsible officer." The only thing which we have before us is the amendment from the Seanad, and the only things we can discuss are the things which are relevant to the Seanad amendment. The Seanad amendment in this case simply deletes the idea of a report from a responsible officer. Deputy Johnson I think is simply re-inserting that. His purpose would just as easily be gained by voting against agreement with the amendment.

Mr. JOHNSON: This is one of the difficulties we are under when we cannot have time to consider the effects of amendments. If we are given time to understand the effects of amendments that are proposed we might not make the mistake of producing further amendments which are doubtful. I ask—do you rule the amendment out of order?

AN CEANN COMHAIRLE: I am in the same difficulty as Deputy Johnson. I only see the amendments before me now, but there was urgency and the Dáil decided to take this matter now, and,

therefore, we must only do our best in the circumstances. It appears to me that the amendment proposed is a direct negative, and that the purpose would be achieved by not agreeing with the Seanad amendment, and leaving the Bill in the position in which it left the Dáil. Therefore, I think, I cannot put Deputy Johnson's amendment.

Question put and agreed to.

Mr. O'HIGGINS: The second amendment is, in its effect, identical with No. 1. The Senator moving the amendment urged the same objection, that he wanted not to question a report from an officer of this rank or that rank, but the direct personal responsibility of a Minister, and he moved, therefore, to delete from the word "have," line 1 to the word "report," line 3, inclusive, and to substitute therefor in writing the words "certify in writing that he is satisfied that." The Section as amended would read, "In respect of whom such Minister shall certify in writing that he is satisfied that the Public Safety is endangered by such persons being allowed to remain at liberty." I move that the Dáil agree with the Seanad in that amendment.

Question put and agreed to.

Mr. O'HIGGINS: Amendment 3 was really officially inspired. Deputies will remember the contention we had here when the Bill was before the Dáil about the words "for stated reasons." My advisers told me that if it were set down in the Bill, that reason were to be stated for the detention of a person there is a technical legal effect in that, that it would bring it within the power, the scope and the competence of the courts to call for these reasons, and to proceed to enquire into their sufficiency and validity. In effect and practice that would amount to a trial. If the Court were to set themselves to inquire as to whether or not there was just cause for the detention of A.B., that would amount in fact to a trial of A.B. The whole underlying principle of this Bill is that an emergency exists which justifies the deterrent detention as distinct from the punitive imprisonment of citizens, and that the emergency justifies the Executive of the State in detaining citizens without trial and without sentence of the Courts.

I therefore move in the Dáil for the deletion of the words "for stated reasons" in any sections where they occur. Through an oversight these words remain in this Sub-section (2) of Section 2. I own to the Dáil that I asked a Senator in the other House to move the deletion of these words. That amendment was moved and was carried in the Seanad and I now move that the Dáil agree with the Seanad in that amendment.

Mr. JOHNSON: I think this Section ought to remain as it stood when it left the Dáil in this respect. At any rate, we ought not to agree with the decision of the Seanad. The sub-section gives power to an Executive Minister to order the detention of any person in respect of whom the Minister certifies in writing that he is of opinion that the public safety would be in danger by such a person being set at liberty. That is how the Minister wants the section to read, and that is how the Seanad presumably has decided that the section should read. I believe that we should not agree with the motion of the Seanad to delete these words "for stated reasons," or even notwithstanding the Minister's plea that a certain legal responsibility would be involved by the retention of these words. I think they should be retained, and I think this legal responsibility should be imposed upon him. If such a Minister is prepared to certify in writing that he is of opinion that the public safety is in danger, surely it is not asking too much that he should state the reasons for such an opinion.

Mr. DARRELL FIGGIS: No.

Mr. JOHNSON: The Minister is a human being. I believe he is, notwithstanding Deputy Figgis' demur, and he must have reasons for an opinion, or he ought to have reasons for an opinion, and when we are dealing with such a matter as the imprisonment or the detention without charge of a citizen it should not be merely on the unsupported statement of the Minister, that in his opinion danger would arise from the freedom of the citizen, but he should state his reasons for coming to that opinion. The Minister has frequently argued upon the undesirability of putting in writing any reasons, because the Courts of Law require that where reasons are to be stated they may be called for by the Courts. That shows

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the wisdom of the Courts and the unwisdom of the Minister and of the Dáil, if it allows this amendment to be carried, in over-riding the established law in these cases. I do not think it is good, and it is because of this opinion that I oppose it still. I do not think it is good that the Executive Minister should have these

powers, these extraordinary powers, without being called upon to state the reasons why he does things. Therefore, I ask the Dáil not to agree with the Seanad in these proposals to delete the words "for stated reasons."

Question put: "That the Dáil agree with the Seanad in the said amendment."

The Dáil divided: Tá, 39; Níl, 12.

Tá.

Liam T. Mac Cosgair.
Donchadh O Guaire.
Uáitéar Mac Cumhaill.
Seán O Maolruaigh.
Micheál O hAonghusa.
Seán O hAodha.
Seamus Broathnach.
Pádraig Mag Ualghairg.
Peadar Mac a' Bhaird.
Darghal Fíges.
Deasmhumhain Mac Gearailt.
Micheál de Duram.
Seán Mac Garaidh.
Risteárd O Maolchatha.
Pilib Mac Cosgair.
Domhnall Mac Cárthaigh.
Maolmhúire Mac Eochadha.
Earnán Altún.
Gearóid Mac Giobúin.
Liam Thrift.

Eoin Mac Néill.
Liam Mag Aonghusa.
Pádraic O Máille.
Fionán O Loingsigh.
Seamus O Cruadhlaeich.
Cristóir O Broin.
Caoimhghin O hUigín.
Proinsias Bulfin.
Tomás Mac Artúir.
Aindriú O Laimhín.
Liam O hAodha.
Proinsias Mag Aonghusa.
Eamon O Dúgáin.
Peadar O hAodha.
Seamus O Murchadha.
Liam Mac Sioghaird.
Tomás O Domhnaill.
Earnán de Blaghd.
Seamus de Burca.

Níl.

Tomás de Nóglá.
Riobárd O Deaghaidh.
Liam de Róiste.
Tomás Mac Eoin.
Liam O Briain.
Tomás O Conaill.

Aodh O Cúlacháin.
Seamus Eabhróid.
Cathal O Seanáin.
Domhnall O Muirgheasa.
Risteárd Mac Fheorais.
Domhnall O Ceallacháin.

Motion declared carried.

SECTION 4.

Mr. O'HIGGINS: The next amendment of the Seanad is in Section 4, Sub-section (1), to delete in line 46 the words "persons certified by the Attorney-General to have legal knowledge and experience" and to substitute therefor the words "a practising barrister or solicitor of not less than five years' standing." I move that the Dáil agree with the Seanad in the said amendment.

Question put and agreed to.

Mr. O'HIGGINS: I move that the Dáil agree with the Seanad in Amendment 5: To delete Sub-section (4) and to substi-

tute therefor the following new sub-section:—

(4) When such an Executive Minister shall receive a report from an Appeal Council that there are no reasonable grounds for suspecting the person interned of having committed or being engaged or concerned in the commission of any of the offences mentioned in the Schedule to this Act, he shall, within one calendar month from the receipt of the report, order his release unless—

(a) he shall refer back the report to the Appeal Council for the consideration of further evidence; or

(b) the person be charged with any offence punishable by imprisonment.

The objection to giving the Appeal Council power to order the release was based on the grounds that it was not a Court, that it is an advisory body. I could not see any way out of the difficulty of reserving to the Executive the Executive act of ordering the release of a detained person. This amendment rather gets over that, because the mandate is from the Oireachtas, and not from the Appeal Council. I stated in the Dáil that I could not conceive that in one case out of a hundred—for that matter one case out of several hundred—that the recommendation of the Appeal Council would not be acted on. Yet I could not give away the principle that the Appeal Council was simply an advisory body, to make its recommendations, and that the Executive act of release should be the act of the Minister or the act of the Executive Council. This new sub-section is preferable in form, because an order at least comes from a body that has a right to order. In the Seanad I accepted this amendment, and stated that I was willing to ask the Dáil to recommend it. I now move that we agree with this amendment.

Mr. JOHNSON: I congratulate the Minister upon the lesson he has learned in the Seanad, and upon the gentle way in which he has pleaded guilty to advising the Dáil wrongly when this Bill was before the Dáil. I think the amendment is a considerable improvement on the Bill as it left the Dáil, and I propose to support this motion.

Question put and agreed to.

SECTION 5.

Mr. O'HIGGINS: I move that we agree with the Seanad in Amendment 6: In Section 5, Sub-section (1), lines 23 and 24, to delete the words "penal servitude for any term not less than three years" and to substitute therefor the words "such term of penal servitude as the Judge may decide."

Mr. JOHNSON: Will the Minister make a case for his motion?

Mr. O'HIGGINS: The case is, that I always like to meet amendments, wherever possible, and I see no grave objection to this amendment.

Question put and agreed to.

Mr. O'HIGGINS: I move that we agree with the Seanad in Amendment 7: In Sub-section (2), line 27, to delete the word "shall" and to substitute therefor the word "may." The reasons for that amendment were eloquently stated in the Seanad. I do not propose to repeat them.

Mr. O'CONNELL: They carried more weight there than here.

Mr. JOHNSON: I take it that the Minister is proposing that the Dáil agree with this amendment.

Mr. O'HIGGINS: Yes.

Mr. JOHNSON: He is prepared to recommend it on its merits?

Mr. O'HIGGINS: On its demerits.

Question put and agreed to.

Mr. O'HIGGINS: I move that we agree with the Seanad in Amendment 8: In Sub-section (2), line 29, to delete the word "of" and to substitute therefor the words "not exceeding." The effect is considerable. Instead of a fine of £50 we have a fine not exceeding £50. £50 is fixed as a maximum instead of a set figure.

Question put and agreed to.

Mr. O'HIGGINS: I move that we agree with the Seanad in Amendment 9: In Sub-section (3) to delete the word "shall," line 35, and to substitute therefor the word "may"—"every person found guilty on indictment of any of the offences mentioned in Part 2 of the Schedule of this Act may be sentenced either"—and so on instead of "shall."

Question put and agreed to.

Mr. O'HIGGINS: I move that we agree with the Seanad in Amendment 9 (a):—In Sub-section (3), line 37, to delete the word "three" and to substitute therefor the words "not exceeding five."

The Senator who succeeded in inserting "may" instead of "shall" was so pleased that he volunteered a concession of "not exceeding five," instead of the word "three" in line 37, which I accepted, and which I now ask the Dáil to accept.

CATHAL O'SHANNON: The Minister seems to have been making bargains in the other House. I do not know that the bargain in this case is altogether a good

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one. It is adding, if I understand him correctly, two years to the period for which a man may be sent to penal servitude—five years instead of three. The Dáil has been agreeable enough to accept the better judgment of the Seanad to make these punishments permissive and not mandatory. But it is rather asking too much that they should extend the permissive period of penal servitude from three years to five.

Mr. O'HIGGINS: The objection in the Seanad was to making the penalty mandatory on the court. Most of the Senators stated that it was not that they believed that three years were excessive, but that they believed the court should have a discretion. One Senator stated so far from believing that three years was excessive, that he could imagine cases in which a sentence of three years would be too light a sentence for certain offences. It was in that spirit that the maximum was raised to five and the word "shall" was changed to "may." There is a discretion in the Court in sentencing up to five years—that is permissive; it is within the discretion of the Court. Presumably only in very grave cases would a sentence so high as five years be inflicted.

We, when framing the Bill, aimed not so much at long sentences as at certain sentences and swift sentences—sentences which the prospective criminal would have in his mind's eye when setting out to commit his offence, or when turning over in his mind whether or not he ought to commit the offence. There was great objection taken to that both here and in the Seanad, and it was urged that we should not make sentences mandatory; that we should not ourselves fix a flat sentence and say that that shall apply in all cases to a particular offence. The view is urged that the sentence ought to be left permissive. Leaving the sentence permissive—that is, changing the mandatory "shall" to the permissive "may" was not a question of a bargain. The members of the Seanad were impressed with the view that there might be very serious offences, and that there ought to be a discretion to the Court up to five years. We in putting in the word "shall" aimed practically at fixing a minimum, not at fixing a maximum. The maximum now is fixed at five years. We fixed a minimum of three years.

CATHAL O'SHANNON: It is not quite correct for the Minister to say that the Dáil on the last occasion fixed a minimum of three years.

Mr. O'HIGGINS: In using the word "we" I meant the framers of the Bill.

CATHAL O'SHANNON: In the Bill, as it left the Dáil, the maximum was 8. In the amendment which the Minister moves now the maximum is five years.

Mr. O'HIGGINS: Three years was both the maximum and minimum in the Bill as it left the Dáil.

CATHAL O'SHANNON: Neither three nor five is the maximum. The fact of the matter is that if the man is poor and cannot get £100 to pay the fine, another year's imprisonment, making a possible six, is to be added. When we were debating this Bill before, the Ministerial side and this side differed on the question of allowing discretion to the judges. We stood out for allowing the judges discretion. The Minister stood out for making everything mandatory, including other very objectionable provisions of the Bill. A discretion has now been allowed to the courts, but I cannot see why, if, in the opinion of the Minister, the maximum for any of the offences in Part 2 of the Schedule should be three years, plus one if he be a poor man, it should now be permitted to the Courts to make the maximum five years plus one year, if the prisoner is a poor man.

Mr. JOHNSON: I desire to support the view that the extension of the imprisonment allowable by two years should not be agreed to, especially in view of the other part of the paragraph, which puts up against failure to pay £50 a further year's imprisonment. As Deputy O'Shannon says, if a man is a poor man and cannot raise £50 or £100, or such sum between these two figures as the Judges may decide, then he will have to suffer another year of penal servitude, and there is no modification of that year. If he is a wealthy man, or if he has wealthy friends, he will buy off his year's imprisonment by paying £50 or £100, but being a man who has not got money he must pay the penalty of one year's penal servitude. That, of course, is an indication of the intentions of the Ministry in putting forward this Bill. I think we should not agree with this amendment,

which would make possible six years' penal servitude to the poor man, as against five years for the man who can afford to pay £50 or £100. We should protect, if possible, the poor man against that bias against him because of his poverty. If we can retain the words "three years" we may save him a year's penal servitude. It may be, as the Minister says, that the offence would warrant five years' or even six years' penal servitude, but inasmuch as the Bill is, as I say, biased against the poor man, unless the Minister can suggest means of equalising the penalty, so that the wealthy man who can raise the £50 or £100 fine shall not be able to buy off his year's penal servitude, I think the Dáil should not agree with this amendment.

Question put and declared carried.

Mr. O'HIGGINS: Amendment 10 is consequential on that, and proposes to insert, instead of "term of three years," in Sub-section (3), lines 42 and 43, the words "previous term of imprisonment."

Question put and agreed to.

Mr. O'HIGGINS: Amendment 11: In Section 13 to insert after the word "detained," in line 4, the words "(e) providing for the inspection of such prisons, camps, and other places, and the visiting of persons detained therein by responsible persons to be appointed by the Minister, who shall discharge the functions aforesaid without remuneration." I move: "That we agree with the Seanad in that amendment."

Question put and agreed to.

Mr. O'HIGGINS: The twelfth and last amendment is in paragraph 12, Part 2 of the Schedule: To insert the word "knowingly" before the word "aiding." I do not think it has very much effect one way or another, because there is no offence in law without what the text book calls *mens rea*, a guilty condition of mind. If there were no guilty condition of mind the offence would not be there, but a Senator moved to insert the word "knowingly." It is quite harmless and I accepted it, and I ask the Dáil to accept it.

Question put and agreed to.

THE DAIL RESUMES.

AN CEANN COMHAIRLE: Agreement with the Seanad amendments is reported from the Committee.

Mr. JOHNSON: Now that we have given consideration in Committee to these amendments is not that the fulfilment of the motion that we have already passed? Can we go on to any further consideration of this Bill now without another motion?

AN CEANN COMHAIRLE: The motion passed was: "That Standing Orders be suspended for the consideration of the Seanad amendments to the Public Safety (Emergency Powers) Bill before proceeding to the Orders of the Day." The consideration of the Seanad amendments took place in accordance with our Standing Orders, which prescribe that such amendments shall be considered in Committee, and the subsequent stages of the consideration of the Bill are, I think, the natural outcome of the consideration in Committee.

Mr. JOHNSON: Will the Bill then not require to be submitted to us as amended?

AN CEANN COMHAIRLE: Oh, no. the Bill has actually been amended in the Seanad. We are not now amending the Bill; we are merely concurring in the Seanad amendments, and when we have done so the Bill becomes law in the form in which it left the Seanad. It left the Seanad with these amendments actually in it. That is the position.

Mr. JOHNSON: The Dáil has been sitting in Committee discussing these amendments. Having sat in Committee a motion to agree with the Dáil in Committee must take a formal course, I take it. The motion of the Dáil that the Dáil agree with the Dáil in Committee must take the regular course.

AN CEANN COMHAIRLE: In this particular instance we have no precedent except our own. For our own convenience it was decided that we would consider amendments from the Seanad in Committee and in the case of such amendments we have always received the motion for agreement immediately on coming out of Committee. That is the precedent established, and I think it is the only one we can find. In other places they do not go into Committee to consider amendments from the other House.

Mr. O'HIGGINS: I move that the

[Mr. O'Higgins.]

Dáil agree with the Committee in these amendments.

Mr. BLYTHE: I second.

Question put and agreed to.

AN CEANN COMHAIRLE: A message will be sent to the Seanad informing them that the Dáil has agreed with their amendments to this Bill.

INTOXICATING LIQUOR BILL.

Mr. O'HIGGINS: An item was handed round to Deputies which is not on the Order Paper. It is asking leave to introduce a Bill regarding the sale of intoxicating liquor. If there is no objection to a First Reading now we might perhaps take it, and I think that the Bill will be in the hands of Deputies this evening or early to-morrow. It deals mainly with the regulation of hours.

Mr. JOHNSON: I think that we ought to know exactly what the business is to be. We are to have new Bills introduced now. Is it intended that they should be proceeded with? Are we to have Bills introduced, printed and proceeded with or not, and is this one of those it is not intended to proceed with? I think this is another Bill of which we ought to have notice before the Orders of the Day are altered, and I think that the regular course should be followed from this time forward.

Mr. O'HIGGINS: I do not want to press this Bill if there is an objection to taking it, or even to press the First Reading, but after it is in the hands of Deputies, if there is any definite, crystalised objection to proceeding with it, I would not propose to do so. I thought that it was a Bill regarding which there was a certain measure of agreement and I thought that some members of Deputy Johnson's party were agreed that it could be introduced. If that is not the case I do not press this First Reading, and even if the First Reading is granted I would not propose to press the Bill if it were found that there was any definite objection to it.

Mr. JOHNSON: My objection lies in this, that because a certain liberty has been allowed in the past in regard to Standing Orders we are to take that liberty as a precedent and that we need not take into account the Standing

Orders henceforward. That is more or less the line taken, and I am inclined to think that we should be much more rigid, though that rigidity hurts all of us; that the procedure set down ought to be followed, even on the First Reading of the Bill. We have two days this week in which the Minister could, following the regular procedure, introduce this Bill if he desires, and there can then be no question of order, but having suspended the Standing Orders for one measure, to ask the Orders to be suspended again on a matter having no claim to be of urgent importance, is, I think, asking more than we should agree to, and merely for the purpose of insisting that some regard should be had to the necessity for orderly procedure I oppose allowing this Bill to be introduced at this stage. To-morrow or Friday it could be put on the Order Paper and the First Reading could be granted. Then we can know the mind of the Ministry as to the Bill and whether it is a contentious Bill or not. We do not at present, and I submit that the proper procedure ought to be complied with.

Mr. BYRNE: May I ask the Minister could he not give us now an outline of the Bill. There may be agreement in the Dáil to allow the First Reading to go through if it is of a non-contentious character. If it is a question of fixing hours, I believe there is a feeling abroad that all the hours should be the same. If the Minister could give us some idea of what is in the Bill, agreement might be arrived at, but I think it is most unfair to ask for the First Reading of the Bill, without giving us any opportunity of knowing what is in the Bill.

Mr. O'HIGGINS: The object of the First Reading is to get leave to have a Bill printed and circulated, so that Deputies may know what it is about.

AN CEANN COMHAIRLE: What is asked for is not that the Bill be introduced, but that leave be given to introduce the Bill. The Standing Orders have only been waived either by agreement arrived at unanimously, or by motion made under the Standing Orders, and carried in a proper way. I understand from the Minister that unless he can get an agreement now to move the First Reading of the proposed Bill he will not move it. The question is whether there is agreement. I understand there is not.

Mr. D. McCARTHY: I think the Labour members should allow the Bill to be read. After all, it is more a trade union question than anything else.

CATHAL O'SHANNON: It is not the Bill, or the provisions, that are objected to at all. That could not be in question, because we do not know what the provisions of the Bill may be. The question raised by Deputy Johnson is the question of procedure in the Dáil. Deputy Johnson's objection is not at all to the introduction of this, or any other Bill of the kind, but to the method attempted to be adopted in this case. It is not a question of the contents of the Bill, but of the procedure attempted to be put in force in asking permission to introduce it.

AN CEANN COMHAIRLE: Agreement to allow the motion for leave to introduce cannot, therefore, be obtained.

THE INDEMNITY BILL, 1923.

DÁIL IN COMMITTEE

SECTION 1.

(1) No action or other legal proceeding whatsoever, whether civil or criminal, shall be instituted in any court of law or equity in Saorstát Éireann for or on account of or in respect of any act, matter, or thing done, whether within or outside the area of jurisdiction of the Provisional Government or of Saorstát Éireann, since the 27th day of June, 1922, and before the passing of this Act, provided such act, matter or thing

(a) was done or purported to be done for the purpose or in the course of the suppression of the state of rebellion created by the attempt to overthrow by force the lawfully established Government of Saorstát Éireann (including the Provisional Government), and

(b) was done in good faith, and

(c) was done or purported to be done in the execution of the duty of the person doing the same, or for the public safety, or for the enforcement of discipline or otherwise in the public interest, and

(d) was done by a person holding office under or employed in the service of the Provisional Government or the Government of Saorstát Éireann in any capacity whether military or civil, or by any other person acting under

the authority of a person so holding office or so employed.

(2) If any such action or proceeding as is mentioned in the preceding subsection has been instituted, whether before or after the passing of this Act, it shall be discharged and made void, subject in the case of an action or proceeding instituted before the passing of this Act to such order as to costs as the court or judge may think fit to make.

(3) This section shall not prevent the institution or prosecution of

(a) any proceedings by or on behalf of the Government of Saorstát Éireann or any Minister or Department of that Government, or

(b) any proceedings in respect of any alleged rights under, or breaches of, any contract, or

(c) any civil proceedings founded on negligence in respect of damage to person or property, or

(d) any proceedings respecting the validity or infringement of a patent, or

(e) any proceedings under the Damage to Property (Compensation) Act, 1923 (No. 15 of 1923), or

(f) any proceedings for enforcing or otherwise giving effect to any final judgment given by any court in Saorstát Éireann before the passing of this Act and from which no appeal lies by law or is pending at the passing of this Act.

The PRESIDENT: I understood, sir, that the evening would be fairly well advanced before we would reach this Bill. I move the first section.

An Leas Ceann Comhairle took the Chair at this stage.

The PRESIDENT: I move an amendment to Section 1: "In Sub-section (1), line 26, to insert immediately after the word 'or' the words 'the Government.'" It is an obvious drafting amendment. "The area of jurisdiction of the Provisional Government or of the Government of Saorstát Éireann."

Mr. JOHNSON: "The jurisdiction of Saorstát Éireann" surely is more correct? That is the phrase that is used in the Constitution. After all, the Saorstát is the State, that is to say the organisation, and I think the phraseology in the Constitution deals with the area of jurisdiction of Saorstát Éireann.

The PRESIDENT: It would read: "Whether within or outside the area of jurisdiction of the Provisional Government, or of the Government of Saorstát Eireann." "Saorstát Eireann" is already in the third line of the first clause.

Mr. JOHNSON: That is true. The clause reads: "No action or other legal proceeding whatsoever, whether civil or criminal, shall be instituted in any Court of law or equity in Saorstát Eireann." That is the geographical entity, but the area of jurisdiction of the Provisional Government is one thing, because the Provisional Government was set up to cover a particular geographical area. The State was not established, but when it is it is the State, Saorstát Eireann, and that is a political entity. I think the term "the jurisdiction of the Government of Saorstát Eireann" is not correct.

The PRESIDENT: I think it would be slightly out of balance if in one case the term "Government" was used, and in the other the term "Government" were not used, because obviously it is intended that the jurisdiction should so run as to have been within the area of jurisdiction of some Government or other. I take it that Saorstát Eireann defines the geographical position in the first three lines, and the Government comes in, so far as this jurisdiction is concerned, in the other place.

Amendment agreed to.

CATHAL O'SHANNON: I move to delete, in Section 1, Sub-section (1), line 25, the words "act, matter or thing done" and to substitute the words "military act."

The section as it stands reads that no action or other legal proceedings whatsoever, whether civil or criminal, shall be instituted in any Court of law or equity in Saorstát Eireann for, or on account of, or in respect of, any act, matter or thing done. Now, the object of my amendment is to confine the indemnity to military acts. It seems to me that the words that I desire to have deleted give too wide a scope to the indemnity. Acts of Indemnity, as a general rule, are not so wide. They are wide enough to cover the necessary, and essential illegalities committed during a war or insurrection in order to pre-

serve the State. But I think it has been the invariable rule to make them as narrow as was consistent with the spirit in which the act was conceived.

Now, we have not had much time to consider the wording of this particular Act, and it may be that my reading of it is at fault. If that is so, I hope the Minister will be in a position to correct it, but as it stands I take it that the words of the section cover everything. Any acts not covered by previous Acts of Indemnity, known to history would be covered by this particular Act. There is only one other case of an Act so wide, that I ever heard of; that was the Act which the Jamaica House of Assembly attempted to pass in 1886, to cover the illegalities of the Government of that place, and it was not allowed. No one in this Dáil—and those of us on these benches as little as anybody else, less perhaps than any one else, would desire this Dáil to pass any Act or Section of an Act that would leave it open to anybody to call into use the powers of disallowance which nationally and legislatively is altogether objectionable to us. But I believe that the retention of these words would make that possible. I therefore beg to move the deletion of the words I quoted, and the substitution of the words "military act." I admit that the words "military act" would require a definition later on.

The PRESIDENT: I do not know whether the Deputy has observed that there are four provisos in connection with those powers taken here, that any act, matter or thing is restricted within the ambit of these four (a), (b), (c) and (d). The only other War Indemnity Act was the British Act of 1920, in relation to the European War and our own Indemnity Act in relation to British Acts passed in the winter of 1922, and all are in practically the same words as this Bill. As to the all-embracing character of the words mentioned by Deputy O'Shannon, they are all restricted within these four provisos, "done in suppression of rebellion," "Done in good faith," "Done in the execution of the duties of persons for the public safety," and for persons holding office or employed in the service of the Provisional Government or the service of the Saorstát. The words "military act" would scarcely describe these correctly. One can understand that in the course of operations,

such as had to be undertaken to deal with the disturbances that had then taken place for a very considerable time that it is more than possible that information reached important centres which if it were known to persons who were subsequently inconvenienced, which is a very mild term to use—possibly an action might lie or some proceedings could be taken in respect of such information. Such information did come, it came from private civilian sources, and it is due to these people who, having undertaken the public duty possibly entailing serious consequences for themselves without any hope of gain because there were no rewards that these persons who endangered their lives and property in order to serve the State should certainly be covered in a clause such as this. It will also be observed in proviso (d) that it is proposed to grant immunity to certain persons other than military persons. I think in view of the peculiar circumstances of the disturbances that it is absolutely essential that we should safeguard from attack, possible loss or persecution persons who so acted in the terms of the four Sub-sections (a), (b), (c), and (d), and for these reasons I hope the Deputy will withdraw the amendment.

Mr. JOHNSON: This Bill was read a second time yesterday, and it was agreed to, because it was felt that there was necessity for an Indemnity Bill, and, therefore, the principle of it was agreed to. I little thought when I agreed to that, and not having had time to read the Bill, that I was agreeing to the principle of the Bill which indemnified every person who claimed to act, or who was acting under the authority of some Department of State for any act he may have done within this last year.

That is what the Bill amounts to in effect. The production of this Bill, in its present form, and the hurrying of it through as we have been obliged to do, in a sense, obliged to acquiesce in it in ignorance, leads one to have to say more on this stage than otherwise would have been necessary. The Minister has referred to the provisos under Section 1. It seems to me that the provisos mean nothing. The Section says that no action shall lie "whether civil or criminal for any act committed provided that such act was purported to have been

done in the suppression of a state of rebellion, or was done in good faith, or that it purported to have been done for the public safety, or for the enforcement of discipline, or otherwise in the public interest, or that it purported to have been done by a person holding office or acting under the authority of a person so holding office, or so employed." The only paragraph in that Section which may be said to be of any value whatever is that such an act should be done in good faith. We are told later on that every act shall be deemed to have been done in good faith unless the contrary is proved. We are asked, therefore, to say that any person who can persuade the Minister to give his certificate that he was a servant of the State, or was acting under the authority of a servant of the State, may have done anything at all within the last year, and will be indemnified unless the complainant can prove that it was not done in good faith.

Now, that is an almost impossible condition, and to prove that a man was not acting in good faith is almost beyond possibility. Unless the complainant can prove that a man was not acting in good faith then we are asked to indemnify that man against trial or against any penalty for theft, loot, cruelty or killing, maiming or any offence almost that can be conceived, or which may be stretched into a possible act done in the public interest. If he purported to be acting for the suppression of the rebellion, or purported to be acting in the public interest, or was acting under the authority of some person holding office in this State, he may claim to have been acting in this way, and so far as that goes he is indemnified, provided the complainant cannot prove that he was not acting in good faith, then he is indemnified against any action. That is what the clause means, so far as I can read it, and it would require a good deal of argument, I think, to prove the contrary. The amendment that Deputy O'Shannon moves attempts to restrict this indemnity to a military act, and, as he pointed out, there would be need for a definition of a military act, but it would not include loot, cruelty, or many of the other offences that have been alleged against persons acting under the authority of other persons holding office or employed by the Government. I think it is desirable to limit this indem-

[Mr. Johnson.]

nity to those who have been acting, shall we say, in the first case under military authority and in a military manner.

The proceedings of the last year have been pretty generally under the authority of the military forces, and no indemnity ought to confine itself, as far as this section is concerned, to such acts. I am surprised that the Ministry should try to indemnify every person practically who claims to have acted to suppress the rebellion, and for any act that they may have accomplished or have been guilty of in the course of that suppression. I would ask the Minister to think again about this matter. I do not know if the amendment proposed is of a kind which will fit the needs of the case, but it is another instance where we are unable to give proper consideration to the Bill. I do not think we should be invited to pass a Bill of this sweeping indemnifying character without proper consideration. I would desire that the Committee Stage of the Bill should be deferred for a couple of days so that we could really analyse it and get some information about it.

The PRESIDENT: I think the Dáil may possibly have forgotten the Act that I mentioned before, the Indemnity (British Military) Act, 1923, which was passed by this Dáil. If it will not weary Deputies, I will read the first section of that Act. It is:—

“No action or other legal proceeding whatsoever whether civil or criminal shall be instituted in any court of law or equity in Saorstát Eireann against any person for or on account of or in respect of any act, matter, or thing done after the 23rd day of April, 1916, and before the date of the passing of this Act, by any person or under the authority of any person who, at the time when the act, matter, or thing was done, held any office under or was employed in the service of the British Crown or the British Government in any capacity, whether naval, military, air force, police, or civil, provided such act, matter or thing was done or in good faith purported to be done in execution of the duty of the person doing the same, or in exercise or execution of any authority conferred on such person or on the person under whose authority such person was acting by any statute of the British Parliament or any statutory

or other order of the British Government, or was in good faith purported to be done for the maintenance of the then existing form of government in Ireland, or for the public safety or otherwise in the public interest: Provided that nothing in this Act shall be construed to prevent any person from instituting or prosecuting any proceedings under the Indemnity Act, 1920, or from claiming or obtaining any payment or compensation under the said Act which he might have instituted or prosecuted or claimed or obtained if this Act had not passed.”

There is certainly no difference in substance between these two clauses, and I put it to the Deputies that in the one case there was Statutory authority for most of the acts that were permitted—certainly statutory authority, far exceeding the authority which this Dáil conferred upon the military, and which the Executive Government conferred upon other people in order to safeguard the State. Those acts were done in good faith by those persons, for the safety of the State. They were not promised nor were there undertakings solemnly entered into between the Government and those agents of theirs that such an Act as this would be passed. There was no necessity; they did not ask for it. I believe that they trusted in the sincerity of the various regulations, orders, and resolutions, passed by the Dáil in order to safeguard the State. In this case we are giving no more and certainly no less than we gave to the late enemy, which was given as an act of grace, in good faith carrying out our part of the bargain that was made, when the instrument called the Treaty was signed. To that extent I think it is due to those who undertook, at grave peril to life and limb and property, dangerous duties during that period when there was no statutory authority whatever behind them, except the one authority—the authority for the preservation of the safety of the people of the country. To that extent I think they were entitled to ask for practically the same conditions. The terminology may be a little different, the construction of the clause may not be the same, but the sense is the same.

CATHAL O'SHANNON: We have been about ten or eleven months here now, and nothing, I think, has been more striking, even up to this last week, than

the capacity of the Ministers to make false analogies, to see only one-half of a position, or, if they see the other half, to ignore it. The President has mentioned two Acts of Indemnity, the British one and the Saorstát one of last year. There is no analogy at all between them and this one. No matter how closely corresponding the words of this one and the construction of it may be to our own act of last year, the circumstances are altogether and completely different. 'An Act of Indemnity passed either here or in Britain at the conclusion of a National war is a different order of Act of Indemnity from one passed to indemnify the military and other servants of the State after or passing out of a period of insurrection or rebellion. There is not quite a complete analogy. The nearest thing to analogy would be the Acts of Indemnity passed in South Africa in 1915 or passed in other parts of the world in somewhat similar circumstances, even Acts passed here in Ireland by the Irish Parliament after the Insurrection of 1798. All these Acts were framed for a somewhat similar purpose to the purpose of this Bill before us. But the Act that we passed, and which the President properly describes as an act of grace to the enemy, whose forces had been fighting here, is not the same kind of Act at all. All the circumstances are quite different. It was, as a matter of fact, argued here in this Dáil that it was even more than an act of grace, that it was intended for one thing, to prevent anything in the nature of reprisals—which were a likely enough thing, under certain circumstances—against certain servants of the British Government, when the British Government had made a Treaty of Peace with the Irish people, and, on the other hand, to be a kind of appeal from the newly-constituted Government of what was to become the Saorstát to the British Government to be reciprocal in its extension of grace. The President will remember well that the Seanad held up that Act, for some time, because the Seanad thought, or some members of the Seanad thought, that the reciprocity was not forthcoming from the British side. On appeal the Séanad changed that attitude and allowed that Act of Indemnity to pass, but it was not an Act of Indemnity in any sense of the word like this one. This is an Act to indemnify servants of the Saorstát, not an Act to

prevent Irish citizens from taking action against those who had fought against them during the period of war.

I am surprised that the President should attempt an analogy. Take, for instance, the British Acts from 1798 on to the passing of the Irish Parliament. Those Acts were not as wide or as sweep-as this one. In fact an action was taken against one man named Fitzgerald for cruelty to prisoners in the Insurrection of '98. The Act of Indemnity then in force did not protect him, and as was usual in those days, with that particular class of Government, they passed a special Act to prevent his proper punishment. An excellent authority says of those Acts—and the judgment is just as good in regard to most Acts, as, for instance, the South African Act of 1915, and other Acts of Indemnity, having the same object as this Act—"Reckless cruelty to a political prisoner, or still more certainly the arbitrary punishment or the execution of a political prisoner would in spite of the Indemnity Acts have left every man concerned in the crime liable to suffer punishment." This Act is intended to get away from all that. This Act casts its net so widely that practically everything can be pleaded to have been done in good faith, or to come under the provisions of this Act.

General MULCAHY: The plea that an Indemnity Act passed here to deal with the circumstances of the last twelve months or so should be less wide than an Indemnity Act passed by the British Parliament in 1920, to cover actions that might have been taken either by the military or civil authorities, or persons acting under the military or civil authorities in Britain during the great war, does not hold water. If it were necessary the argument is entirely the other way. You had a situation during the great war in what was then the United Kingdom, in which you had machinery that was established and working very definitely under statutes and regulations against an enemy that was absolutely outside the territory with which the British Indemnity Act of 1920 purported to deal. Here without machinery set up by Statute, without proper regulations for the guidance of the people who were either military employees or civil employees of a Government only coming into being, of necessity you had a much less trained

[General Mulcahy.]

personnel, much less guidance in the matter of taking action and following up matters than you had in the British case. Therefore, there should be all the more reason why the Government, in passing an Indemnity Act covering that period, should make that Act most embracing.

It is due to the individuals who rallied to form the military machinery for the Government, or who rallied to form the civil machinery for the Government, and who acted in authoritative military and civil capacities to deal with a state of insurrection here that the Government would make the fullest possible provision for their indemnification. The acts that are being dealt with under this Act, are acts that will stand the test of each one of these particular sub-clauses (a), (b), (c) and (d). You are dealing with acts that, under the particular circumstances that existed here were done or purported to be done in the course of the suppression of rebellion, and not only that, but in addition to that were done in good faith; in addition to that were done in the execution of the duty of the person who carried out the same; and in addition to that were done by persons holding office under and employed in the service of the Government for the time being, or by any person acting under the authority of a person so holding office or so employed. I submit that the provisions for indemnification that are made there are the minimum that this Government could place in an Act that was intended to cover reasonably those servants, whether military or civil, who brought the State through the difficulties and the dangers of the last twelve months.

CATHAL O'SHANNON: If the provisions of this Act, as the Minister for Defence suggests, are the minimum provisions for an Act of the kind, I wonder what the maximum provisions would be. His analogy is false again. He quite conveniently ignores the failure of the President's analogy between our own act of last year and this one. The failure is just as striking in the case of the British Act of 1920 in this respect, that every Act of indemnity after a state of insurrection or martial law had either, in statute or in declaration or in some other form, provision made not only for indemnity of officers and servants of the State, but for amnesty of those who had

been in arms or in rebellion against the State. The British Act was at the conclusion of an external war, and after the conclusion of a treaty of peace between the combatants concerned. The British Acts for which indemnity was required were undertaken against a combatant with whom they had then made peace, just the same as our Indemnity Act of last year applied to combatants who were, or who were deemed to have been, at war with us. But the Ministers have made no attempt on this occasion, and have nothing to show that there is anything like a treaty of peace between the combatants. They will deny even that there were combatants at all. They will refuse amnesty to them, and unlike States elsewhere, will not bring the military régime, and the military domination to an end at the same time as they ask for an Act of Indemnity. Everywhere martial law has been declared at an end where an Act for this purpose has been brought in—in South Africa and everywhere else. But not here. The Ministry, and presumably the Legislature, will leave it to the courts to declare that a state of war no longer exists.

Mr. JOHNSON: I want to follow up that line of argument. Are we to take it that every case that may have required indemnity up to to-day will come under this Act, and that after this Bill becomes law every person who acts outside the law will be liable to all the penalties of the law. That presumably is the intention.

Certain acts have been committed, and I think it would be well to give a concrete case, perhaps the simplest case, which I think I can show would indemnify the culprit, if there be such, from penalty. A man is kidnapped, and is not found. He may be under arrest somewhere unknown to the authorities. Let us assume for the sake of argument that there are some grounds for the suspicions that have been abroad, and, of course, I think, it is admitted that there have been extra-legal and unauthorised acts committed. Let us assume that this is one of them. Under this section, if the culprit were found and he claimed that he was acting, and his intentions were to act to help in the suppression of the rebellion, that he was acting in good faith, that he believed he was acting in the public interest, and that he was acting under the authority

of some other person, nameless, who was employed by the State, he is indemnified, under this Bill, from any consequences, provided that the aggrieved person is not able to prove that he was not acting in good faith. That is going very much further than the Act which the Minister quoted in support of the case for this Bill. If the Minister will introduce that Act as a Bill, with the necessary amendments, I am prepared to support it, and that Act, bear in mind, was passed under exceptional circumstances. The Minister appealed to the Dáil to pass it, not as a bargain, and we supported him because we felt that as a generous gesture this indemnification of British police and soldiers for wrongful acts would secure a *quid pro quo* from the British Legislature and the release of all Irish prisoners in British custody. It was not examined, and it was a case of wiping the slate clean. They had no longer authority, and there was no need to pursue a vendetta, and in view of that, this Act was agreed to. A similar Act might still be agreed to, applied to those who have been acting unlawfully and purporting to act with the authority of the Government. This Bill goes very much further indeed than that Indemnity Act, and it clears every person for any act that he may have committed, provided that the aggrieved person is unable to prove that the offender was not acting in good faith, as I said earlier, an impossible proposition—or, carrying the matter still further, that the Executive Minister may give a certificate that such a person was acting in the execution of his duty. But even that is not necessary. Under Section 1 the man need not require this certificate. All he has to do is to claim that he was acting in good faith and that he purported to be acting to suppress the rebellion. The Minister for Defence quoted these four provisos, and said that they were cumulative, but the accumulation means nothing at all, when all the man has to say is "I believed I was acting in good faith," or, "I believed that I was suppressing this rebellion, and I believed that I was acting in the public interest." The Bill simply wipes out every offence, reasonable or unreasonable, justifiable or unjustifiable. It practically wipes the slate clean for every offender, no matter what the offence has been, and I do not think the Dáil is prepared to do that. The Minister tells us that we have not got to a state

of normality. As President Harding once said, we have not got to complete peace and quiet. The Military Authorities, the Police Authorities, the Protective Force, the Civic Defence Force, and such other forces as there may be, of which we know nothing, are all to be allowed or encouraged by this Bill to do things outside their lawful authority. That is not the intention certainly, but that would be the effect if conditions remain as they are represented to be, that a state of peace has not yet been reached. You are telling the forces, by giving them this indemnity, that there will be another Indemnity Bill at a later stage, and giving them a loop-hole to do things which are not in accordance with discipline, and are not justifiable according to the law. I think this Bill goes entirely too far in wiping the slate clean, and I say, I would be prepared to support an Indemnity Bill couched in the phraseology of the Act which the Minister has quoted, but I would confine it to that phraseology, and would ask the Minister to consider that proposition.

The PRESIDENT: I have already dealt with the very important difference between the position of a person acting under the authority of the British Government, and a person acting under the authority, but not under the statutory authority, of the Provisional Government, as it was then called, or Dáil Éireann, or Saorstát Éireann, or this Dáil. I do not subscribe to, nor do I admit, that Deputy O'Shannon has proved anything in the case that he has put up. He said that I drew false analogies—I think that was the term he used—and he gave no proof whatever, but got lost in the mazes of the various reasons that he gave in proving that there was no analogy. He instanced the case of an amnesty. We are prepared to give an amnesty; we are prepared to give it now; we were prepared to give it all along. We offered one; we offered a second, and in what way were they taken? What is the use of offering an amnesty to a person who will not avail of it? The Deputy has apparently not looked up Sub-section (2) (a), or Sub-section (3) (a): "This section shall not prevent the institution or the prosecution of any proceedings by or on behalf of the Government of Saorstát Éireann, or any Minister." I do not know exactly what the Deputy has in mind

[The President.]

when he says the aggrieved person is precluded from taking action. It is not the business of the aggrieved person to take action with regard to kidnapping. The Government is there for that purpose. If this information is given to us, if we are supplied with information that persons are engaged in kidnapping or doing anything unlawful, or exceeding their duty, or anything of that kind, or taking action not in good faith, I will undertake, on behalf of the Government, to have such persons prosecuted, and there is no necessity for the aggrieved person to think that the onus lies on him to discharge the functions of a citizen in regard to that. While the present Government is in power we certainly owe a debt, a very serious debt, to those who undertook to carry out the instructions and orders that were given them by the Government and by the Dáil. Acting as they did, for the purpose for which they acted, on the instructions which they got, it is our duty to give them this indemnity. We would be failing in our duty if we did not do so. We would be failing in our duty if we did not exceed the terms of the British Act insofar as the difference of the case requires different treatment.

This Act deals with matters, acts, and things done up till the date of the passing of the Act. If normal conditions are restored there is no necessity for any future Indemnity Act. If Deputies are satisfied that normal conditions are restored, they have it within their power to act accordingly. Deputies know perfectly well that normal conditions are not restored. They are in the gradual process of restoration, they have been approaching normality, but there is no objection, none whatever, on the part of a single member of the Executive Council, or any body I believe in the Dáil, to give an amnesty, if the amnesty be accepted in the faith in which it is given, in good faith, and if there is a wiping of the slate, a clean wiping of it. But we are not going to take, nor are we entitled to take, any risks with regard to that, or to offer that which will be spurned, as it has been already spurned. If information is given to us as to the identity of persons engaged in kidnapping, or engaged in doing anything unlawful, or exceeding their duties, or anything of that sort, I undertake to carry out the

duties of the Government in regard to the wishes of the Dáil, and of our own judgment with regard to that, and that is to prosecute any person who has exceeded his duty, and has not been acting in good faith, and who otherwise is not, a true citizen of the State in regard to the execution of his duties.

The Deputy did not mention if he thought the time was ripe for an amnesty. Even when things did not appear anything like so favourable as they do now, it was offered, and it was availed of by some, but not by all. With regard to cases of alleged cruelties, or anything of that sort, I have often before pointed to the fact that we had a very large number of prisoners, a very good evidence of the fact that those engaged in suppressing the rebellion suppressed it with every possible amount of mercy. I have already stated on more than one occasion that these exaggerated stories of cruelties we have heard are the natural outcome of persons who are disappointed in not having carried out what they set out to do. I mentioned on one occasion that we know of those exaggerations, and that we were ourselves witnesses to them in the old days, and that we know how easily they are started and with what zest the people will believe them. Only a short time ago, it will be within the recollection of Deputies, it was alleged at a public meeting, that a body was found riddled with bullets, and a withdrawal, apology or explanation of that had to be made. Remember the particular grounds alleged, a note was washed up for another person to read. In other words it did not matter a damn if another person read that, but when Simon Pure read it, it was another matter.

AN LEAS-CHEANN COMHAIRLE:

It is now 7 o'clock, the time fixed for private business.

The PRESIDENT: There is no other business, and I think we will go on with this.

Mr. MILROY: The President has informed us that owing to the pressure of public business it would be expedient that private business be not proceeded with, and in deference to that, Dr. White and myself have agreed not to proceed. Amendment put and declared lost.

Mr. JOHNSON: I beg to move: "To delete the words 'or purports to be done.'"

My reason for this is to make sure that there is not any mere statement of the person who committed the act that he believed he was doing it for the suppression of the rebellion. I would be inclined to withdraw this amendment, and my opposition to the clause, if the Minister will insert an amendment on the lines of his speech when he spoke of the acts done in obedience to instructions, and the carrying out of orders. That would meet my objection.

The PRESIDENT: May I interrupt the Deputy? When I said acts done under instructions, I meant resolutions passed here and the authority given here, not instructions that were given. I do not know anything about any other instructions, that I think the Deputy has in mind. I had a different thing in my mind.

Mr. JOHNSON: I had nothing in my mind about instructions given. I had in my mind acts that were done outside instructions by people who pretended they were acting under instructions, but can hide behind the pretence that they were acting under instructions. I do not want to indemnify those people, and this clause will indemnify them, notwithstanding what the Minister says about Sub-section 3, which says the Government will not be prevented by the section from instituting or prosecuting proceedings. Certainly they will not be prevented, but I think that there are many occasions where an aggrieved person can bring actions. If they cannot prosecute in criminal courts, they can bring actions for damages, and this section deals with civil or criminal cases, and an aggrieved person can bring a civil action against an offender, or one whom he alleges to be an offender. I maintain that this Section will allow people who did acts in defiance of instructions to claim indemnity, and to escape liability. If provision could be inserted in this section, where the person would be acting in obedience to the instructions of his superior officer, then there would be a liability to prove that he was acting under the instructions of the superior officer, and the indemnity then would cover the illegal acts of people who were acting on their own initiative, and their own authority.

It is no use blinding ourselves to our beliefs that men have sallied forth from barracks and gone into houses and smashed up houses and stole things from houses. Now, deliberate destruction may be a criminal offence, or it may be a civil offence; it may be either. The Government are not prepared to prosecute in the criminal court. A civilian who suffered that damage can sue in a civil court, but if this Section passes I maintain that every person is indemnified against these Acts; all he has to say is he was properly acting in the suppression of rebellion, or that he acted in good faith believing he was acting in suppressing rebellion. If the Minister will insert some words to the effect that he was acting under the instructions of a superior officer, it would go a far way to meet my point, I think the liability to trace the direction would go far to establish responsibilities, and we could find out whether there was responsibility or whether it was the act of a criminal pretending to act in good faith in the suppression of rebellion at the instigation of the Government. No man should be indemnified unless he was able to afford this proof.

General MULCAHY: The Bill makes it perfectly clear that the act must have been done in good faith. Sub-section (1) (b) says "provided such act, matter or thing was done in good faith." There is no question of "purporting to be done in good faith;" it must be distinctly established that the act was done in good faith. With regard to things done, or purporting to be done, it is quite possible that action has been taken, and that the person taking that action was perfectly satisfied he was taking it for the purpose and in the course of the suppression of a state of rebellion, and that later, and in calmer times, it could not be sustained that the act was reasonably or even justifiably taken in the suppression of rebellion. If in the circumstances in the mind of the officer, the man in the discharge of his duty acted in perfect good faith, and if the act he did was an act that it was necessary to take at the time, then this Act of Indemnity here is intended to cover such act as that. You cannot get away either from acts taken on a person's own initiative. Anybody who knows the circumstances in which the present state of war developed knows

[General Mulcahy.]

how events were almost entirely dependent, in the earlier stages, on men sizing up their local situation and acting on their own initiative, and taking action with a view to preventing the spread of disturbance in their area, or definitely putting down disturbance there. In some of the actions taken it would be absolutely impossible to define a very clear authority running step by step up to the Army Council or the Minister for Defence that could be reasonably put up in a court, and asked that it be regarded with a line of authority running step by step down to the man who took action in June, July or August, or later days. The Bill is intended to cover a period in which we were depending on men taking their own initiative and dealing with the situation immediately around them, and dealing with it in very difficult and hurried circumstances. Therefore, the amendment cannot be accepted.

Amendment put and negatived.

Mr. JOHNSON: I beg to move the deletion of paragraph (c) of Sub-section (1) of Section 1. The paragraph reads: "(c) was done or purported to be done in the execution of the duty of the person doing the same, or for the public safety, or for the enforcement of discipline or otherwise in the public interest, and." I am taking this course because I want to find out what is the meaning of the paragraph, and to draw attention to its import. The words in the paragraph that an act may have been done "in the execution of duty" may be satisfactory, and no doubt if the person could show that he was executing his duty in doing this Act, then that would be a reason for indemnification. But it is said in the paragraph: "or for the public safety, or for the enforcement of discipline or otherwise in the public interest." It may purport to have been done for the public safety, for the enforcement of discipline or in the public interest. Either of these conditions would satisfy the paragraph. I would ask if the Minister would agree to the insertion of words somewhat on these lines: "In the execution of the duty of the person doing the same, or in obedience to instructions issued by a superior officer." These alternative propositions seem to me to exclude the possibility that the man was even doing his duty in carrying out the act for which

he is to be indemnified, and I would like to hear what the Minister has to say on that point.

Mr. FITZGIBBON: All these subparagraphs are cumulative, that is to say the thing must be done under (a), it must be done in good faith; it must also be done under one of the sub-heads of (c), and it must also be done under (d). To entitle a person to indemnity he must come in somewhere under every one of the sub-heads. The sub-heads (a), (b), (c), and (d) are not alternative; they are all cumulative, and, therefore, if you were to delete (c), you would be deleting a series of things one of which must be proved in addition to (a), (b) and (d). Therefore, to delete anyone of these sub-heads is to increase the immunity, already very great, that the Act gives to a person who has committed an offence. To say that they must be done under the section in the execution of the duty of the person, or must be done in obedience to the orders of a superior officer, would defeat the intention of the section, because that would cut out the possibility of an honest mistake, which I think was contemplated by the draughtsman in drafting the Section. If a man, say, were sent down with orders to arrest A.B., and, in honest mistake, he arrested C.D., that would have been an act not done in the execution of his duty, because his duty was to arrest A.B. But it would be purporting to have been done in the execution of his duty, because he was trying to obey his orders and failed under (b), and made a mistake. That is the man whom the sub-section protects, and that protection in an Act of this kind is a protection that is invariably inserted. To delete any one of these sub-heads would be to increase the immunity that, I say, is already very great.

Mr. JOHNSON: I must say that I quite realise that, but I said when I was moving the deletion of this paragraph that I was doing so for the purpose of extracting from the Minister some further explanation, and I saw no other way of getting the information than by moving the deletion of the paragraph. I am not convinced by the arguments of Deputy FitzGibbon that there is no liability upon the person to show that the act, which he carried out, requires an indemnity. It is possible that a criminal act was done in obedience to instructions. The case

quoted by Deputy FitzGibbon was, of course, a very simple one, and would not need the elaborate provision of this section. I am thinking of the criminal acts, responsibility for which could be evaded by this section, coupled with a later section which the Minister for Defence conveniently forgot. Sub-section (2) of Section 2 says that every such act "shall be deemed to have been done in good faith unless the contrary is proved."

Amendment put and negatived.

Question put: "That Section 1, as amended, stand part of the Bill."

Agreed.

SECTION 2.

(1) A statement in writing signed by an Executive Minister certifying any of the matters mentioned in this section shall be conclusive evidence of the matters so certified, that is to say,

(a) that any act, matter, or thing complained of in any such action, or other legal proceeding as is mentioned in Section 1 of this Act was done in the execution of the duty of the person by whom it was done;

(b) that at the time when any such act, matter, or thing as aforesaid was done, the person by whom or under whose authority, the same was done held office under or was employed in the service of the Provisional Government or of the Government of Saorstát Éireann.

(2) Any such act, matter, or thing as aforesaid, if done by or under the authority of a person holding office under or employed in the service of the Provisional Government or of the Government of Saorstát Éireann shall be deemed to have been done in good faith unless the contrary is proved."

Mr. JOHNSON: I beg to move the deletion of Sub-section (2) of Section 2. That Sub-section seems to me to complete the white-washing process. I say it is impossible to prove that a person was not acting in good faith. I think the liability of proving that he was acting in good faith is on the person who committed any act.

The Minister drew attention to the paragraph in Section 1, that one of the provisos was that the act for which the indemnity was sought was done in good faith, but this sub-section says that "the acts shall be considered to have been done in good faith unless the contrary is proved." The smashing of a man's fur-

niture cannot be defended, I think, in normal circumstances. If a number of men go into a house in the execution of their duty and proceed to smash the furniture within that house, those smashers should be held liable to prove that they were acting in good faith. They should not be deemed to be innocent of malice until the owner of the furniture was able to prove that they were not acting in good faith. I would recognise quite clearly that if we were only dealing with acts of military or police which were in excess of their duty, due to over-zeal and perhaps a misunderstanding of their responsibilities, that this phrase and this section might be quite satisfactory, but I can see every possibility within this Bill, and especially a sub-section of this kind, that these acts, which, as I have stated, were criminal acts, and were done, as I believe, in defiance of authority, are going to be whitewashed, and there will be no liability. I think that the assumption of good faith in such cases is quite unreasonable. We should not assume that an act of that kind was done in good faith. If we had had more time to prepare amendments for this Bill, we probably would have put in amendments which would be more in keeping with the act of legislation, but in the absence of proper time and proper consideration, I am forced to propose amendments which are probably going beyond my desire and my intention. I feel that this assumption of good faith in the case of acts which are obviously criminal acts is too gratuitous altogether. I certainly hope that we shall have time to introduce amendments before the Report Stage—amendments which can have a little more consideration before they are framed. In the meantime I will move formally that Sub-section (2) be deleted.

Mr. O'DONNELL: It would seem to be suggested by the last speaker that this Dáil wanted to whitewash people in the case of loot and in the case of every ignominious act the Army did. I think every Deputy in this Dáil who reported any cases to the Minister for Defence got any satisfaction that was sought. I know myself, and I know from other Deputies that I discussed the matter with, that our requests were acceded to the very fullest. It seems to be assumed that acts were not done in good faith:

“ [Mr. O'Donnell.]

People who have nothing to do with the construction of an army either now or at any other time, and who were not engaged either in 1916 or in the late war with the Army, do not know how difficult it is to keep an army together. I would submit that nobody should by any means suggest that this Dáil directly or indirectly connived at anything that was done irregularly by the Army.

CATHAL O'SHANNON: Deputy O'Donnell's argument, if I might call it an argument, might be all right—I do not say it would be—if the Act only applied to the Army and members of the Army, but the Act applies to many more than members of the Army. Deputy O'Donnell does not seem to realise that it applies to anybody and everybody who has purported to be a servant of the State and acts as a servant of the State in good faith, unless that somebody can prove that he did not act in good faith.

General MULCAHY: I submit that the sub-section here is perfectly reasonable, and that it is perfectly reasonable in respect of servants of the State whose actions are covered by Clause 1, to accept that they acted in good faith until it is proved to the contrary. I submit that it would be quite unreasonable to expect that such men would have to come forward and prove in some Court, or to some person's satisfaction, that they did act in good faith. It is quite reasonable that the sub-section should be there. It would be quite unreasonable to think that any clause in this Bill is intended or will have the effect of whitewashing or cloaking or of giving immunity to any person against whom it could be proved that he entered a man's house and smashed up his furniture.

Amendment put and declared lost.

Motion made and question put: “That Section 2 stand part of the Bill.”

Agreed.

SECTION 3.

(1) Every military court or committee or tribunal (in this section called a military tribunal) established since the 27th day of June, 1922, and before the passing of this Act by the military authorities of the Provisional Government or of Saorstát Eireann for enquiry into the cases of or for the trial of persons taken prisoner as military captives by the military forces

of the Provisional Government, or persons charged with offences, shall be deemed to be and always to have been a validly established tribunal, and every sentence passed, judgment given, or order made before the passing of this Act by any such military tribunal shall be deemed to be and always to have been valid and to be and always to have been within the lawful jurisdiction of the tribunal.

(2) As soon as may be after the passing of this Act there shall be established by an Executive Minister a Board of Commissioners consisting of not less than two members, all of which shall be persons who at the date of their appointment hold or have held judicial office in Saorstát Eireann.

(3) The Board of Commissioners established under this section shall have power to review, and on such review to confirm or reduce, but not to increase, any sentence of penal servitude or imprisonment imposed by a military tribunal on any person, whether such person was or was not at the date of such sentence ordinarily subject to military law.

(4) An Executive Minister shall immediately on the establishment of such Board of Commissioners make rules regulating the procedure of such Board, and making provision whereby any person who at the date of the passing of this Act is serving a sentence of imprisonment or of penal servitude imposed by a military tribunal may apply to such Board of Commissioners for the review by such Board of the sentence so imposed on him.

The PRESIDENT: I move to add after the words “Provisional Government,” the words “or of the Government of Saorstát Eireann.”

Amendment agreed to.

CATHAL O'SHANNON: I desire to move the deletion of Sub-section 1 of Section 3. The section is a section that deals with the courts, the courts that have been operating, and the body of Commissioners which it is proposed to set up to review those sentences. The sub-section says that “every military court or committee or tribunal established since a certain date and before the passing of this Act by the military authorities”—and so forth—“shall be deemed to be and always to have been a validly established tribunal,

and every sentence passed, judgment given or order made before the passing of this Act by any such military tribunal shall be deemed to be and always to have been valid, and to be and always to have been within the lawful jurisdiction of the tribunal."

In the first place there are three different bodies mentioned here—military court, committee, or tribunal, and there is nothing in the Act to define what is meant in this section by a military court or committee or tribunal. There is nothing to show whether the same thing is meant by a military committee as by a military court. As we know, the position of the Army has been, not in a political sense, but in the legal sense, somewhat irregular. Steps have been taken to regularise and legalise that position. But while there are definitions in that other Bill, there is no definition defining these courts or committees or tribunals. I do not think it is right that the Dáil should permit this section to stand. In the first place, we do not know how many prisoners have been condemned by the bodies mentioned in the section. We do not know the sentences that have been imposed upon them and we do not know either the composition of the bodies that passed those sentences, or in any of the cases, except perhaps a few, the nature of the offences which the Courts were set up to try. In addition to that, all these courts have sat absolutely in secret. They are not courts known to the law. Even if they were regularly established military courts, their actions as courts have not been known to the law. But we are now asked, without knowing anything about them, without knowing whether all of them had authority from what are described as the higher military authorities to put the seal of validity on every decision they have come to. No doubt, further on there is provision for review, but before that provision is arrived at, we are asked in the sub-section to make everything they did valid. I submit that the Dáil should not do that, and I move the deletion of the sub-section.

The PRESIDENT: The Deputy has not explained to us what alternative there was to that particular method. These military tribunals, committees or military courts were authorised by Resolutions of the Dáil, and they acted on the instructions they got from the Dáil. They passed

certain sentences. The only delay that can possibly take place with regard to the revision of the sentences is the delay from the passing of the Act and the setting up of the body of Commissioners. The deletion of this first section would scarcely affect the issue because obviously unless there is a proposal put forward that persons so convicted were to be released their cases would not be affected by the exclusion of Section No. 1, and they would apparently remain in military custody without any validation of their sentences. A validation is necessary in respect of officers and committees and others who took on themselves this duty without statutory authority, and simply by Resolution of the House at a time when the public safety demanded some such action. It is certainly due above all others to the military courts or tribunals. I would myself consider it a very serious dereliction of my duty if I did not bring forward this section. I think I was responsible, in the first case, for introducing those resolutions to the Dáil. They had no statutory authority. They have none now. They were passed by a majority vote of the Dáil after very considerable discussion. On more than one occasion has it been mentioned to me by officers in high positions that they fully realised the seriousness of their position. I think the Deputy will, on reconsidering the matter, withdraw his objection to this particular sub-section because of its implications. I am sure it is only due to those officers who undertook such very, very serious responsibilities on our resolution here, and if ever a thing was done in good faith, that was certainly done in good faith. It was a painful, arduous, and I might almost say a brain-racking duty that fell upon them, and they did it by our direction, under our resolution here, and without any other authority than that. I do not know how otherwise it would be possible to validate—and it is only a temporary validation—all those sentences until they are reviewed as provided for under Sub-section (2) of this clause.

Mr. DARRELL FIGGIS: I have, on occasion, found it, or deemed it to be, my duty to criticise the President and the Executive Council on certain matters. However, I do not like to let this opportunity go by without putting some-

[Mr. Darrell Figgis.]
 thing into the scale on the other side. I have made it my duty, within the last three or four months, to make inquiry through solicitors and otherwise into the procedure of these military tribunals. I am bound here in fair honour to testify that in every case it has been stated that those who have been present at the tribunals have found them anxious and desirous only of achieving justice, and anxious and desirous of throwing their weight on behalf of the person arraigned if such could at all possibly be done. That has been the united testimony, and I would like to state here that that has been testified to me even by solicitors who have been there on behalf of prisoners, and who, for other reasons, have not at all been predisposed in favour of these military tribunals. That has been their testimony, that they have been just tribunals, and that the officers who have sat on them have in every case endeavoured to temper justice, and to temper justice as far as it could possibly be tempered with every consideration for the prisoner. Seeing that that is the case, I think it would be very hard and very unjust if we now were to do anything that would fail to make those sentences, which so far have no legal cover, illegal, as they would continue to be. I therefore urge that the amendment be withdrawn, or not persisted with, but that this clause be passed in order that validity should be given to judgments that were entered into with every care, and certainly with every desire, so far as I have been able to discover, to administer justice fairly as between all parties.

Mr. JOHNSON: The Deputy probably has had better opportunities for finding out the course of justice in these Courts than other Deputies. I, for one, am under this disability, that I do not know what number of military courts or committees or tribunals, or what kind of military court or committee or tribunal has been established. I know, of course, that the Dáil authorised certain courts to be established, but other courts may have been established; there may have been other tribunals or other committees besides those authorised by the Dáil. We do not know. "Every military court or committee or tribunal established since the 27th day of June, and every sentence

passed by such court or committee or tribunal is to be validated." It is a pleasing thing to have perfect faith, but my name is Thomas.

Mr. DARRELL FIGGIS: A very good name.

Professor MacNEILL: Doubting Thomas.

Mr. JOHNSON: I have certain doubts, and I am not prepared to assume that the acts of the military authorities have all been strictly in accordance with the authorisation. At least, if this section is persisted in, we ought to have a phrase included that such courts or committees or tribunals shall be those set up under the authorisation of the resolutions of the Dáil. But we are also in this difficulty, that we know nothing about the sentences passed, the extent of them, and, if they are imprisonments, the length of these imprisonments. People may have been sentenced to all kinds of penalties unthinkable. We do not know. I say "may." I am suggesting extremes, but this validation of everything that may have been done by a military authority, and possibly some things that cannot be undone, is very wide indeed. I think that before we are asked to pass this, the secrecy of these courts should have been cancelled, and we should have had some report from the military authorities as to the number of trials that have taken place, the extent of the sentences, and the kind of the sentences, so that we would know what we were validating—at least, to have some idea that we are not authorising acts which, if our eyes had been open, we would not have authorised. Deputy Figgis often quotes business practices, and the President is very fond of the analogies of the business man and his practices. I wonder do they regularly advise the giving away of blank cheques, because that is exactly what is meant here. I would ask the Minister to give us a report of the kind of courts that have been set up, the cases that have been tried by these courts, the number of prisoners that have been sentenced, and the length of their sentences, if they are imprisonments, or what other sentences have been passed. Then we would know if we were doing the right thing in validating these sentences; but this provision

is practically asking us to say, "Whatever you have done was right, whatever you have done was lawful, and if it was not lawful we will make it lawful." I am not prepared to do that without having some further light on the subject.

Mr. DARRELL FIGGIS: Deputy Johnson while speaking looked at me with such an air of mild and beneficent challenge that I am moved to reply to him, and I would ask him in that regard to contemplate what is the alternative of such a paragraph as this. He has stated that I have quoted business practices and procedure. I hope that business practice and procedure will always be observed. He asks, "How many business firms give away a blank cheque." I think it is a little late in the day to speak about that. Whenever a business house did give away a blank cheque to anyone of its agents, and that agent filled it in, the business house would have to honour that cheque. What is the alternative to this? Let me put it in terms of ordinary procedure, such as Deputy Johnson, I am perfectly sure, experiences every day and every week. Take the head of any department of a firm. Matters come across that particular head's notice of certain acts done by a subordinate of which he does not entirely approve, of which he may even deeply disapprove, but these acts were undertaken by that subordinate in good faith. They may be most injurious acts. What does the head of the department do in this instance? He settles his account with the subordinate for the future, but he backs him for what he has done in the past, and this is the case entirely between these persons and this Dáil, which is the head of this firm.

An Ceann Comhairle resumed the chair at this stage.

Mr. DARRELL FIGGIS: It is perfectly true that other tribunals than those established under the Resolutions of the Dáil of September or October last may have been set up. Let us say that there were. I do not know. Let us imagine that certain sentences were given that were harsh, injurious, unjust. What is going to be done by this Dáil with regard to those sentences passed by tribunals set up by certain responsible persons? Will you repudiate them now? I hardly think that that would be persisted in. The right action surely is to see that these acts are rectified for the future and

that in so far as any injustice has been done in the past, the persons who suffered from that injustice shall have it amended as far as can be done, but that the servants, who acted in good faith, shall be supported in the action that they took in such good faith, and that is all that is endeavoured to be done here. The alternative is to repudiate the subordinates of what I described here as a business house, and I do say that that would not be done anywhere if these subordinates had acted in good faith, believing that they had a good and sufficient charter.

In any case the best commendation that this sub-section requires is just to imagine, and to contemplate quietly this alternative, and this alternative means that there would be no confidence in any person so appointed if they did act in excess at any particular moment of the letter of legislation, because there was no time to have provided that legislation. I believed at the time that we should have formulated these military courts last autumn more carefully than we did, but this Dáil by its majority framed them in a certain way, which Deputy Johnson described—

Mr. JOHNSON: Which Courts?

Mr. DARRELL FIGGIS: I am talking about the courts of October 28th. If the Dáil, having come to that decision, instituted certain courts then, then the Dáil is responsible for what its agents did, but Deputy Johnson says—what about the courts in between that and June 27th. What I say about these courts is, that these in any case would have to be undertaken, and their sentences reviewed, but the responsibility would have to be undertaken by this State for what was done by State servants or earlier courts. Therefore, the only correct and just procedure is to validate what has been done by these courts, and correct, if possible, any injuries that might have arisen, and to rectify the future. That surely is all that this section endeavours to do.

CATHAL O'SHANNON: My intention in moving the amendment was not at all to prevent the Act of Indemnity from extending to those officers who sat on courts. I recognise with the President that they are as much entitled to get indemnity for their acts, as any other officer, but we have got no information as to the number of sentences, or the nature

[Cathal O'Shannon.]

or extent of the sentences which we are asked to validate. Deputy Johnson has asked for some information, but we have not got the information. Now, I come to Deputy Figgis. It must be because we are coming to the end of our tether that Deputy Figgis is getting as bad as a Minister, as bad in one sense.

Professor MacNEILL: He has forsaken the angels.

CATHAL O'SHANNON: And improving in another sense, because if I might put it in common language, he would on the doctrine he has just enunciated make a lovely boss. If in the past an employee of Deputy Figgis did something that he did not quite approve of, or in fact something he strongly disapproved of, Deputy Figgis would most generously and kindly, and with the greatest christian spirit, forgive him, and stand over what he did.

Though the Dáil is not a business firm with a managing director, I do not think that the practice of ordinary business houses is the practice as described by Deputy Figgis. On the contrary, I have come across a few cases, at all events, of servants of such houses getting the sack for doing things that the managing director did not quite approve of, and in other cases of such servants being, if they exceeded their authority, prosecuted by the business house. You see it is not all quite so simple as Deputy Figgis would lead us to believe. With intelligent anticipation, if this amendment were not carried, I was about to suggest another amendment that the validation should only apply to those courts on which there was either a majority of people with legal knowledge and experience, or except in purely disciplinary cases, a majority of officers of a certain rank. So far as the Dáil knows, some of the courts may have been courts of lieutenants, and some of them may have been courts of corporals, or courts of privates, and they may have been dealing out rough and ready justice in giving pretty severe sentences. We do not know what kind of sentences. We have not got any of this information, and because we have not, I suggest that we should not with our eyes closed swallow the section as it is in the Bill.

The PRESIDENT: The Deputy, I think, is mixing up two matters which

are very distinct, and which ought to be regarded as distinct. In the first place he is doubting, I expect, the judgment and wisdom of the various military tribunals, as they are called here, in passing certain sentences. I take it that is the main objection, that they may have exceeded their authority. -

CATHAL O'SHANNON: We do not know.

The PRESIDENT: That they may have done things which, if it were not for the disturbances that were taking place would not have been done at all. That is not the essence of this section at all; it is that men acting under our instructions, and fortified by resolutions passed by the Dáil here, undertook serious and responsible duties, which for years to come may possibly be painful recollections for them, but which they did at our bidding and under our instructions. I am sure from what I know of them that they had no more distasteful duty to do during the whole period of these disturbances than performing the duties prescribed in the regulations. They require now an indemnity for carrying out the duties which we ordered them to carry out. Bear that in mind. That is the main concern, and, therefore, our main concern is if they exceeded their duty, if they were unable to weigh properly the cases before them, if they were lacking the wisdom of Solomon in deciding the issues put before them, that is provided for in Sub-section 2. But no amount of argument can get over the fact that you must indemnify them for doing their duty at our bidding. The Deputy may have been against it. I say our bidding. It was the responsibility of the whole Dáil; and it is now the responsibility of the Dáil to honour the cheque they drew, as my very able and very learned and very distinguished friend, Deputy Figgis, has said.

The matter for the moment as to how many sentences there were is not a concern of ours now. The fact is that these officers functioned under instructions issued to them here, and functioned in the majority of cases, I firmly believe, against their own goodwill and desire, but functioned in accordance with their duty as officers carrying out their duty to the State. The Deputy, I think, made a very serious mistake when he said that he was prepared to consider the valida-

tion of certain sentences passed by officers of a certain rank, but to exclude from the benefit of his beneficent feeling unfortunate lieutenants. It may be a misfortune that a man was not of a higher rank than a lieutenant if he acted on one of those tribunals. But once he acted, he is entitled to this indemnity, and that is the essence of this proposal. Any judgment he passed may be wrong, but that does not withdraw from his right and privilege to demand from us now an indemnity for that. It was an act of duty. For instance, it might have been determined that only members of the Dáil should act; that only Colonels or Major-Generals or Lieutenant-Generals, or even only the Commander-in-Chief himself, should have acted. If so, that was our mistake. We cannot blame the Lieutenant if he did not, perhaps, possess a University education, if he did not possess legal experience or the judgment that years of experience of the world would give him. All the decisions in these courts—and this is an important thing to bear in mind, and may relieve the Deputies' misgivings or scruples on the matter of decisions and sentences—all these decisions and sentences were reviewed by two members of the Army Council; they were Major-Generals, I presume, because I think that is the lowest rank that is allowed on the Army Council. My association with the Army was very remote, and my rank was not above that aspersed by the Deputy, although there were many in the ranks who rose to be Major-Generals, and the Deputy can gather from that what form I would have shown if I had remained in the Army.

Mr. JOHNSON: The Minister has ridden away on an assumption not justified by the phraseology of this sub-section. The military authorities may have established tribunals which were not authorised by this Dáil. As a matter of fact, there have been tribunals established within the Army that have not been authorised, and people have been punished by these tribunals. "Every military court or committee or tribunal established by the military authorities"—that is altogether too wide. I can understand the strength of the argument that if this Dáil authorised the establishment of courts and gave authority to cer-

tain persons to be upon these courts, and gave them a wide discretion as to the kind of sentences they might inflict, then these courts and the officers constituting these courts are entitled to some indemnity, but only these courts, only these tribunals, only these committees set up under the direct authorisation of the Dáil. If there were other courts set up in the Army by the military authorities—and we have no definition of who the "military authorities" may be under this Bill; they may be subordinate authorities or little groups of men in barracks who constituted themselves into courts, and tried certain people and executed sentences on people, and these military courts or tribunals or committees and their acts will be indemnified by this section. Does the Minister intend that any such court should be validated?

The PRESIDENT: I never heard of any.

Mr. JOHNSON: No; but they may have existed without your knowledge. The President a moment ago said his knowledge of the Army is remote. Some people whose knowledge of the Army is very close think differently in regard to the setting up of these courts, tribunals, and committees which existed for the execution of rough and ready justice such as the Minister for Agriculture is so fond of quoting.

The PRESIDENT: Might I intervene for a moment to say that there is no intention whatever to include any such order as is mentioned by the Deputy. Military tribunals here are tribunals set up by order of the Army Council, or under regulations issued by them.

Mr. JOHNSON: Will the Minister agree to insert words which will ensure that military courts, committees, or tribunals are those which have been authorised by resolution of the Dáil?

The PRESIDENT: I do not know whether that would exactly cover it, and I am not sure but that a certain order under one of these regulations was laid on the Table of the Dáil. I cannot remember what the precise method of adoption was on that particular order that was placed on the Table. I do not think it was adopted. I cannot quite say what happened to it. I think the motion was

[The President.]

that it was to be negatived, and that the motion did not pass. Obviously anything that would be set up in that way would not be a tribunal set up by resolution of the Dáil, but under regulations or something of that kind. There is certainly no intention to take cover for any illegal operations that may have taken place, and it is denied, as far as I am concerned, and so far as any member of the Executive Council or the Commander-in-Chief is concerned, that such courts ever existed.

Mr. JOHNSON: My whole point is this that there are courts within the Army, or shall I say that there may be courts within the Army. I will go further and say that there are courts within the Army which may, under the latter part of the Section, be defined as military courts, military tribunals or military committees set up by the military authorities. This latter is a phrase that is undefined. These courts may have imposed sentences and carried out sentences, and I am not prepared to validate these acts. Perhaps the Minister will agree to insert words which would ensure that these military courts, military tribunals and military committees referred to in this sub-section are such as have been established with the authority of the Dáil, however that authority may have been conveyed, whether after the courts were set up or before the courts were set up. If that assurance is given then I am prepared to advise my colleague to withdraw his amendment for the deletion of this Section, but I want the assurance that the tribunals referred to are duly authorised tribunals by the Dáil.

Mr. DARRELL FIGGIS: Surely the question that Deputy Johnson proposes is answered in the wording of the sub-section. Deputy O'Shannon suggested that I might make a lovely boss. I do not know whether I would or would not. I had some experience of speaking with

subordinates, and I have always supported them in any action that was authorised, and that is the whole basis of my argument that these things are authorised. Deputy Johnson asks a long series of questions as to whether these courts are or are not authorised, and whether all the courts covered by the section were or were not authorised. The words that I draw attention to are the words in the fourth line of the section where it says, "by the military authorities." Surely authority has only one meaning, and a very clear meaning. An authority is a corporate person, or an individual person who is authorised, and the word has no other meaning. If there are irregular courts set up, these courts were not set up in the plain meaning of the phrase "military authorities," and surely, therefore, they are not authorised courts. It is not a far stretching of argument to suggest that authority is an authorised person, and it is upon these words that the whole of my case has been swinging, that is that a thing has been authorised. Certain military authorities have been set up by this Dáil, and these military authorities have brought certain military courts, tribunals or committees into existence. Therefore, these military courts, tribunals or committees have acted under the authority of this Dáil. What I am particularly concerned in at the present moment, irrespective of the policy that was undertaken at that time, its rights or its wrongs, is that having given such authority, that that authority should now be validated. As to these other tribunals, of which I have heard for the first time and of which Deputy Johnson says he has knowledge, and which he tells us are set up in the Army and may have done all sorts of irregular things, I do not believe that by any possible extension of the wording of this Section, that they could be conceived as being covered by the phrase "established by the military authorities."

Amendment put.

The Dáil divided; Tá, 11; Níl, 40.

Tá.

Tomás de Nógla.
Riobárd O Deaghaidh.
Tomás Mac Eoin.
Liam O Briain.
Tomás O Conaill.
Aodh O Cúlacháin.

Séamus Eabhróid.
Liam O Daimhín.
Cathal O Seanáin.
Domhnall O Muirgheasa.
Risteárd Mac Fhoarais.

Níl.

Liam T. Mac Cosgair.
Donchadh O Guaire.
Uaitéar Mac Cumhail.
Seán O Maolruaidh.
Seán O Duinní.
Micheál O hAonghusa.
Seán O hAodha.
Séamus Breathnach.
Pádraig Mag Ualghair.
Peadar Mac a' Bhaird.
Darghal Fíges.
Deasamhain Mac Gearailt.
Ailfrid O Broin.
Risteárd O Maolchatha.
Pilib Mac Cosgair.
Domhnall Mac Cárthaigh.
Eamán Altún.
Gearóid Mac Giobúin.
Liam Thrift.
Eoin Mac Néill.

Liam Mag Aonghusa.
Pádraic O Maille.
Seosamh O Faoileacháin.
Fionán O Loingsigh.
Séamus O Cruadhlaoidh.
Cristóir O Broin.
Caoimhghin O hUigin.
Proinsias Bullin.
Tomás Mac Artúir.
Séamus O Dólaín.
Aindriú O Láimhín.
Liam O hAodha.
Proinsias Mag Aonghusa.
Eamon O Dúgáin.
Séamus O Murchadha.
Liam Mac Sioghaird.
Tomás O Domhnaill.
Eamán de Blaghd.
Uinseann de Faoite.
Micheál O Duífháill.

Amendment declared lost.

The PRESIDENT: I move to report progress.

[THE DAIL RESUMES.]

Progress reported.

Committee Stage ordered to be resumed on Thursday, August 2nd.

**QUESTION ON ADJOURNMENT—
DAMAGE TO PROPERTY (COMPEN-
SATION) ACT—ALTERATION OF
DATE.**

AN CEANN COMHAIRLE: Deputy Gorey has given notice of a question as to the advisability of introducing legislation to extend the date of the Damage to Property (Compensation) Act in order to deal with the question of compensation beyond the 20th March.

Mr. GOREY: I wish to appeal to the Government to extend the date from the 20th March to some later date that will be found proper. About the 28th March a considerable amount of burnings took place in the country. After that it ceased altogether as far as the political aspect of the question went. As far as the industrial aspect was concerned, unfortunately it did not. But we are only deal-

ing with the political aspect, and without making a speech I would appeal to the President to consider this matter and to bring in a short Bill to amend the date.

The PRESIDENT: Speaking from recollection, there is only one Deputy who put forward a request that this might be done. From inquiries that I have made, or, to use the phraseology of the Police Courts, "from information received," the only County Council that has put forward a claim is the Kilkenny County Council. It may be due to its financial genius or to a desire to deplete the Government purse to a greater extent than it is being depleted, or, as Professor MacNeill said, to greater hopes in its representation that something might be done in that direction. No great case has been put up in favour of this. I quite admit it was an arbitrary date. It was fixed because one could scarcely undertake to pay for damage done beyond the date of the passing of the Act. The Deputy has not mentioned the future date, and I am at a loss to know what precise date he means.

Mr. GOREY: The reason I did not mention any date was because I did not want to suggest anything that would be

[Mr. Gorey.]
unfair. There are a number of cases. I know of one case in Kilkenny and one in Wexford that occurred on the night of the 20th March or the morning of the 21st.

Mr. JOHNSON: I would support the suggestion of Deputy Gorey. The intention, I take it, of fixing the date was to make local authorities feel that there was a liability upon themselves to assist in the suppression of these acts. I think it may be assumed, whether it is justified from that cause or not, that they did take steps to assist more than they had previously done. In any case, these acts have practically ceased, except in a few cases. I think that the point that was made by Deputy Gorey might be met without much cost to the State if the time was extended, say, one month.

The PRESIDENT: To the 20th April, I take it, the recommendation is.

Mr. JOHNSON: That would probably allow a reasonable time for the effect of the Act to be felt by the local people, and it would meet the points that have been raised by Deputy Gorey and his colleagues.

Mr. O'DONNELL: There were not many houses burned after the 20th March. I think that those that were burned before the 20th March and those that were burned after that date should

come under the one heading. I think they should be all put together, including my own house.

Mr. CORISH: I would also make a suggestion to Deputy Gorey. Take the case of County Wexford. The house of one of our Deputies here—Deputy Doyle—was burned on the day after the 20th March, and Senator Sir Thomas Esmonde's house was burned a few days after that again.

The PRESIDENT: The 20th April, I take it, is the date that is requested. This is a very serious matter, and I will have to consider it.

Mr. GOREY: I think the President should go a little further. For obvious reasons, I had no time to make a speech or make any observations on the matter. There is no electioneering about this motion. As a matter of fact, I refrained from making an electioneering speech.

The PRESIDENT: We have only two days more, and it is not so easy to solve all those problems, apart altogether from the money question. It has to be done by Act of Parliament. I will undertake to look into the matter and see if anything can be done.

Mr. GOREY: If not, you will have that speech.

The Dáil adjourned at 8.35 p.m.

DÁIL EIREANN.

DEARDAOIN, 2ADH LUGHNASA, 1923.

(Thursday, 2nd August, 1923.)

Cromadh ar obair an lae ar 3.10 p.m.
Bhí An Ceann Comhairle, Micheál
O hAodha, sa Cathaoir.

GEISTEANNA—QUESTIONS.

[ORAL ANSWERS.]

DEVELOPMENT OF INDUSTRY.

TOMAS Mac EOIN asked the President whether any steps have been taken to give effect to the resolution of the Dáil expressing its opinion that an essential condition precedent to the peaceful development of industry is that the workers should have regularity and permanence of employment, and that, for the purpose of devising the best means of providing such regularity of employment the Government should call into conference representatives of employers and workers' organisations.

The PRESIDENT: The matter is receiving the consideration of the Government, but it is not yet possible to make any definite announcement on the matter. The question of the personnel of any conference summoned to go into this matter will require very careful consideration to ensure its being thoroughly representative. If the Deputy would have any suggestions to make on this particular matter I would be very glad to receive them; or, preferably, to have a conference with the Deputy.

REGISTRATION RECORDS.

SEAN O MAOLRUADH asked the Minister for Local Government whether the Registrar-General has issued an order transferring all records of births, marriages, and deaths from Bawnboy, Co. Cavan, to Cavan town; whether he is aware that such a transfer will entail enormous trouble, expense, and delay to all in Bawnboy who require certificates of age, etc.; whether such an order has

been carried out in other counties, and, if so, which counties; whether the Registrar-General consulted with the Local Government Minister and the Law Officer of the Government before making this change, and whether any communication concerning it passed between the Local Government Department and the Cavan County Board of Health prior to the issuing of the order; further, whether the Cavan County Council, the County Board of Health, and all local authorities in Cavan are against the proposal, and if the Registrar-General can show any reason, either from an economic or other point of view, justifying the change.

MINISTER for LOCAL GOVERNMENT (Mr. Blythe): On the directions of the Registrar-General, who is an officer of this Ministry, the registration records have been transferred from Bawnboy to the central strong room at Cavan. This transfer will not involve any serious trouble, expense, or delay to parties in Bawnboy requiring certificates of age. Similar transfers have been carried out in Counties Kildare, Kilkenny, Longford, Offaly, Roscommon, and Wicklow, and will be effected in the remaining counties according to the progress of amalgamation schemes under the several Boards of Health. This change was made in connection with the County Cavan amalgamation scheme with my authority and full weight was given to all legal considerations. It was not necessary to communicate with the County Cavan Board of Health prior to the issue of the directions, but protests against the proposal were received from the Superintendent Registrar at Bawnboy. I have no information in regard to the views of the local authorities in Cavan on the matter, but the Deputy may feel assured that the centralisation of the records in each county under the control of an officer of the County Board of Health, will make for safety and substantial economy in administration, while no serious inconvenience will be entailed.

RAILWAY AMALGAMATION: QUESTION OF AN AGREED SCHEME.

LIAM de ROISTE asked the Minister for Industry and Commerce if it is a fact that five of the railway companies of the Saorstát have submitted an agreed amalgamation scheme to the Ministry, and

[Liam de Roiste.]

whether it is only the present political situation that has caused the Government to postpone its acceptance.

Mr. BLYTHE (for the Minister for Industry and Commerce): Five of the railway companies have submitted a provisional scheme of amalgamation. The Government is of opinion that the reorganisation of the railways must deal with the companies generally in the Saorstát, and, pending a scheme of general reorganisation, does not consider there is any advantage in proceeding with a proposal that relates to particular companies only.

Mr. DAVIN: In view of the promise made by the Minister for Industry and Commerce that the publication will be given of all the details of the scheme, does the Minister not consider it advisable that the House should be made aware of the proposals agreed upon between the particular companies in the South of Ireland, and is it not an opportune moment to give publicity to the details of the scheme in view of the Minister's previous promise?

Mr. BLYTHE: The Deputy will have to put down another question, or, better still, I will ask the Minister to communicate with the Deputy.

CANALS COMMISSION REPORT.

TOMAS MacEOIN asked the Minister for Industry and Commerce whether he has received a report from the Canals Commission; when the report will be made public; and whether he is prepared to make a statement of the Ministry's intentions in respect of this subject.

Mr. BLYTHE: I am asked to answer this question for the Minister. The report of the Canal Commission was received on the 31st July. It is a long report, which will be published as soon as I have had an opportunity to consider it. Obviously I am not in a position to make any statement of the intentions of the Ministry in respect of a report received only two days ago.

BROADCASTING AND WIRELESS.

Mr. SEAN McGARRY: I beg to give notice that on the adjournment I will raise the question of Broadcasting and Licences for Wireless.

INTOXICATING LIQUOR BILL, 1923. FIRST STAGE.

MINISTER for EXTERNAL AFFAIRS (Mr. Desmond Fitzgerald): In the absence of the Minister for Home Affairs, I ask the leave of the Dáil to have the Intoxicating Liquor Bill introduced, printed and circulated. It deals with the hours at which intoxicating liquors can be sold and bought, it has certain provisions relating to the potest business, and it provides for certain restrictions upon the sale of methylated spirits.

Mr. C. BYRNE: I beg to second.

Question put and agreed to.

Bill ordered for Second Reading.

LEAGUE OF NATIONS (GUARANTEE) BILL, 1923.

(FROM THE SEANAD.)

Motion made and question proposed: "That this Bill be now read a second time."

Mr. FITZGERALD: This Bill has already been passed by the Seanad. It will be remembered by the Dáil that on the 18th September of last year a resolution was passed by this House calling upon the Executive to take steps, as soon as it seemed feasible, for Ireland to join the League of Nations. This Bill is brought in with a view to having the assent of the Oireachtas to that Executive act.

Mr. C. BYRNE: I beg to second the motion.

Question put and agreed to.

APPROPRIATION BILL, 1923.

(FROM THE SEANAD.)

AN CEANN COMHAIRLE: It is hardly necessary to go into Committee if the Dáil agrees. We can move to agree with the recommendations from the Seanad. I take it, of course, that the Minister is going to agree with it.

The PRESIDENT: Yes; they are simply correcting errors that crept in in the printing. The recommendations are:

(1) That the figures "£41,800," in Schedule B Abstract, page 5, third column, be deleted.

(2) That the figures "41,300" and the figures "£41,800," in Schedule B, Part I., page 6, be deleted.

(3) That the word "pension," Schedule B, Part II., page 9, item 29, be deleted, and that the word "revision" be substituted therefor.

I move: 'That the Dáil agrees with the Seanad in the said recommendations.'

Question put and agreed to.

DAIL IN COMMITTEE.

INDEMNITY BILL, 1923.

THIRD STAGE RESUMED.

CATHAL O'SHANNON: I beg to move an amendment in Sub-section (2) of Section 3, on line 2, to insert before the word "judicial" the word "high." As the sub-section stands there is nothing to compel an Executive Minister who appoints a Board of Commissioners to appoint to it judges of the highest status. The section, as a whole, is a fulfilment of the promise made some time ago by the Minister for Home Affairs on one of the stages of the Public Safety Bill, that the Ministry would appoint a Court to review and, if necessary, to revise the sentences passed by military courts. In South Africa, when a similar Court was set up, the decision there was that the Court should consist of three Judges of the Supreme Court. I think all the argument is in favour of the appointment of the highest judicial officers that are available in the Saorstát. The duty of the Board of Commissioners will involve many legal and other questions, and I think it would be much better if the members of the Board were the highest judicial officers in the land. Indeed, it would be well, I think, though it is perhaps outside the scope of the amendment, if there were three Judges instead of two, because with two there may be differences of opinion, and in that case I do not know what would happen. I formally move the amendment.

The PRESIDENT: I would like to know if the Deputy has anybody in mind. There are certain persons at present in the country who have held high judicial office in Saorstát Eireann. I would like to know if he has any of these in mind?

Mr. JOHNSON: Surely it is not the President's desire that a Deputy moving an amendment should name the person that ought to be appointed to this office.

The PRESIDENT: An amendment is put down which has a very vague meaning. Very few reasons are given for it, and no case is made out for its acceptance. I have asked a simple question. I am a plain man, as the Deputy knows, and I am entitled to know whether or not that is the intention or the meaning of the amendment.

CATHAL O'SHANNON: The intention of the amendment is not to name any judicial officers at all. It is a matter of indifference to me who they are in personnel, but their judicial standing is a matter of very great concern, and the reputation and the experience of judicial officers is a matter of very great concern. Now, as the President admitted yesterday evening, the sentences imposed by the Courts mentioned in the Bill were imposed by men acting under great difficulties; they must have been imposed in many cases by men who had little or no legal experience. The intention of the amendment is that in the review of these sentences, if the review is to be a genuine one, and if it is to be not merely a simple reconsideration of the cases, but a review conducted in times of peace, it should, I submit, be conducted by the most competent people whose services the State can call upon. If the President thinks that the amendment as I put it is too indefinite, I shall ask him if he will accept an alternative amendment that the members of this Court shall be Judges of the High Court of Justice.

The PRESIDENT: The amendment is not accepted.

Mr. JOHNSON: As the sub-section stands, the Court to be established, or the Commissioners who may be established under this, which is virtually a Court of Appeal, may be persons who hold or have held any judicial office, even the most minor. The office of Peace Commissioner would, I suppose, hardly be held to be a judicial office, but the office of a District Justice would certainly be held to be a judicial office under this section. A District Justice may be a man who may not have had very much experience as a Judge, though he may have had a good

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deal of experience at the Bar or as a solicitor. But what is required, in my view, is judicial experience, and it is surely not an extravagant request that the persons who are to be appointed as Commissioners should have that judicial experience. They will hear appeals from the Committee of which one had to be a lawyer, and it is not, I suggest, too much to ask that that Court of Appeal should be composed of men who have held high judicial office, not merely judicial office, because of the fact that they had been appointed District Justices and had no experience beyond the last two or three months. Surely the President is not going to say that that is an extravagant or an unreasonable amendment to propose. The term "judicial office" would cover the veriest novice. This Court of Appeal will have imposed upon it the duty of trying cases, and these are alleged to be criminal cases. It is not asking too much that the Court of Appeal, which in effect this Court will be, should be composed of men who have had considerable experience in the trying of cases.

Mr. GAVAN DUFFY: I desire to support the amendment, but I take it that the section as a whole will be open to discussion presently, and therefore I shall

defer till then one or two observations that I wish to make on the section. I merely say now that I fail to understand how any human being can object to this particular amendment if this review performance is intended to be serious.

The PRESIDENT: It is not meant that the Deputy should understand it.

CATHAL O'SHANNON: The President's earlier observation shows something that we have observed from time to time on the Ministerial side, and that is that there is a profound distrust of the High Courts in this country. I have not moved, though I might well have moved, that the appointment of these Commissioners might be taken out of the hands of a member of the Executive Council, but I did not move that. I have moved that the Executive member, in appointing Commissioners, should appoint Commissioners of a certain judicial standing, and it is not either the mover of the amendment or the supporter of it who is asking to be allowed to nominate these officials, but the Ministry is asking that an Executive member should make the nomination. I want to see that the officials nominated will be the most competent people who can be got.

Amendment put.

The Dáil divided: Tá, 13; Níl, 37.

Tá.

Tomas de Nóglá.
Riobárd O Deaghaidh.
Liam de Róiste.
Dúghal Fíges.
Tomás Mac Eoin.
Seoirse Ghabhain Uí Dhubhthaigh.
Aodh O Cúlacháin.

Séamus Éabhróid.
Liam O Daimhín.
Cathal O Seanáin.
Domhnall O Muirgheasa.
Risteárd Mac Fheorais.
Domhnall O Ceallaghain.

Níl.

Liam T. Mac Cosgair.
Donchadh O Guaire.
Seán O Maolruaidh.
Seán O Duinnín.
Micheál O hAonghusa.
Seán O hAodha.
Séamus Breathnach.
Peadar Mag Ualghair.
Peadar Mac a' Bháird.
Deasmhumhain Mac Gearailt.
Micheál de Duram.
Seán Mac Garaidh.
Risteárd O Maolchatha.
Pilib Mac Cosgair.
Domhnall Mac Cárthaigh.
Gearóid Mac Giobúin.
Liam Thrift.
Liam Mag Aonghusa.
Pádraic O Máille.

Fionán O Loingsigh.
Séamus O Cruadhlaoidh.
Cristóir O Broin.
Risteárd Mac Liam.
Caoimhghín O hUigín.
Proinsias Bulfin.
Tomás Mac Artúir.
Séamus O Dólaín.
Liam O hAodha.
Proinsias Mag Aonghusa.
Eamon O Dúgáin.
Peadar O hAodha.
Séamus O Murchadha.
Liam Mac Sioghaird.
Tomás O Domhnaill.
Eamán de Blaghd.
Uinseann de Faoite.
Micheál O Dubhghaill.

Amendment declared lost.

AN CEANN COMHAIRLE: The next amendment on the paper has been altered to read: "In Section 3, Sub-section (3), after the word "review" to insert "(including power to compel the attendance of and to examine any person whom the Board of Commissioners may desire to give evidence)." I think we will take that as a separate matter from the question of inserting the word "annul."

CATHAL O'SHANNON: I formally move the amendment. The sub-section enables the Board of Commissioners to be set up under the Act to review, and at such review to confirm or to reduce, but not to increase, a sentence of penal servitude or imprisonment imposed by one of the Courts. Remarkably enough, it omits to enable the Commissioners to annul or to reverse a decision of one of these Courts. I do not know whether the Minister will claim anything like infallibility for the Courts that have been operating for the last nine or ten months. I do not think he will. The Courts and the officers comprising the Courts have had a very difficult job indeed. Their work has now to be reviewed by the Commissioners, and if they have made mistakes in the length of sentence, the Commissioners will have power to reduce that sentence. If, in the judgment of the Commissioners, they have not made a mistake in a particular case, the Commissioners will have power to confirm the sentence, but if the Commission comes to the conclusion that, as a matter of fact, a prisoner found guilty and sentenced was not in fact guilty, the utmost the Commissioners can do, according to the sub-section, is to reduce that sentence.

AN CEANN COMHAIRLE: Would not it be better if the Deputy took the question of power to examine witnesses first, and leave the matter of annulling the sentence, which is a different matter, to be taken later?

CATHAL O'SHANNON: The Courts that have been operating have been sitting in secret. In many cases, with the exception of military witnesses, if there were such, there have been no witnesses called. The Commissioners now set up, so far as the sub-section goes, do not seem to have the power to call witnesses, not even to call military witnesses. It

seems to me that the powers given to them by the Court will be very illusory if they have not the ordinary rights of Courts. It may be that the intention of the Minister is not to make them Courts in the proper sense of the word at all, but to be merely advisory bodies, such as the bodies set up under the previous Act. Their appointment will merely be a sham if they are not in every sense of the word Courts. If they are Courts, they ought to have the power to call witnesses, whether military witnesses or civilian witnesses, when they are reviewing any particular case, and they ought to have the power to compel the attendance of those witnesses and to examine those witnesses.

Mr. GAVAN DUFFY: All the sentences passed by these military tribunals have been, as I understand, submitted to the Judge Advocate-General or some other military or quasi-legal official, and have been passed by that dignitary. Therefore, if the present clause is merely intended to provide that some other dignitaries ought to do precisely the same work which the Judge Advocate-General has already done, the section is nothing but a vote of censure upon that dignitary. As we cannot assume that the Government desire to pass such a vote of censure, their intention must be to allow—if they are consistent—a proper review of these cases. Now, merely to read a document sent up from a Court-martial as a record of proceedings is not a review in any true sense of the word. It is quite obvious that if it is seriously intended—as it should be seriously intended—to have the cases gone through by a competent legal authority, that authority must have power to call witnesses before it. I would ask the Dáil to remember that it frequently happened—and we all know it frequently happened—that owing to the circumstances under which these trials were held the accused were unable to get the witnesses whom they would have called had the circumstances been different. They were unable in many cases to put the case and prove the case which otherwise might have been proved. I have not the actual text of the amendment before me, but I would like to suggest to the mover that he should agree to the insertion of two words, "on oath," in the proper place, dealing with the giving of

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evidence. It is obvious that to ask people to give evidence otherwise than on oath is worse than useless; so much so that in the British Army code, when they are dealing with such a simple and informal matter as the summary of evidence that is taken at the preliminary inquiry before a Court-martial, the accused can insist on having the evidence given, if he wishes to do so, on oath. I think the mover of this amendment would

be well advised to agree that the words "on oath" should go in in the proper place, as it is not worth while giving these officials power to review anything if the evidence is to be given otherwise than upon oath.

The PRESIDENT: No case has been put up for this amendment, and I do not propose to accept it.

Amendment put.

The Dáil divided: Tá, 11; Níl, 37.

Tá.

Tom 's de Nóglá.
Riob rd O Deaghaidh.
Tomás Mac Eoin.
Seoirse Ghabhain Uí Dhubbthaigh.
Aodh O Cúlacháin.
Seámus Éabhróid.

Liam O Daimhin.
Cathal O Seanáin.
Domhnall O Muirgheasa.
Risteárd Mac Fheoráis.
Domhnall O Ceallaghain.

Níl.

Liam T. Mac Cosgair.
Gearóid O Súiloabháin.
Seán O Maolruaidh.
Micheál O hAonghusa.
Seán O hAodha.
Seámus Breathnach.
Pádraig Mag Ualghairg.
Peadar Mac a' Bháird.
Deasmhumhain Mac Gearailt.
Micheál de Duram.
Seán Mac Garaidh.
Pilib Mac Cosgair.
Domhnall Mac Cárthaigh.
Maolmhuire Mac Eochadha.
Gearóid Mac Giobúin.
Liam Thrift.
Eoin Mac Neill.
Liam Mag Aonghusa.
Pádr'ic O Máille.

Piaras Béaslaf.
Fionán O Loingsigh.
Seámus O Cruadhlaoidh.
Cristóir O Broin.
Próinsias Bulfin.
Tomás Mac Artúir.
Seámus O Dóláin.
Liam O hAodha.
Próinsias Mag Aonghusa.
Eamon O Dúgáin.
Peadar O hAodha.
Seámus O Murchadha.
Liam Mac Sioghaid.
Tomás O Domhnaill.
Eamán de Blaghd.
Uinseann de Fáoit.
Seámus de Burea.
Micheál O Dubhghaill.

Amendment declared lost.

CATHAL O'SHANNON: In the next amendment I think that the words should be "or annul."

AN CEANN COMHAIRLE: I think the word "or" should be inserted after the word "confirm," and after "reduce" the words "or to annul," so that it would read, "confirm, reduce, or to annul."

CATHAL O'SHANNON: I formally move the amendment. The case has already been stated by me. So far as I can see, the sub-section does not enable the Commissioners to annul a sentence passed on a prisoner, even if the Commissioners are of opinion that such sentence should not have been passed—that, as a matter of fact, the particular prisoner was not guilty of the offence for which he was tried, convicted, and sen-

tenced to a period of either penal servitude or imprisonment. I think it is necessary that this power should be given to the Commissioners, otherwise their job is very largely a sham.

Mr. GAVAN DUFFY: I was in some hopes that the President would tell us that his draftsman was responsible for the oversight whereby these Boards are not given power to do what they consider to be justice when they have re-examined a case. That hope is diminishing as I see the President's reluctance to meet the amendment, and I fear that we shall be told that it is seriously proposed to put up Boards which will be asked anew to go through the cases, and will be told that, having done so, they have no power whatever to let out people who are wrongfully imprisoned. Words fail one to criticise that kind of thing.

The PRESIDENT: You are not short of them.

Mr. GAVAN DUFFY: If this is carried by the automatic votes of the Ministry, it is an absolute disgrace. To put up Boards—the word “Court” is carefully not used for fear that the Courts would have to be public under the Constitution—which will pretend to review cases, and, when they find an innocent man is in prison, will have no power to let him out or annul the wrongful proceedings, is nothing less than a scandal.

Mr. JOHNSON: Apparently the Minister is accepting this amendment, inasmuch as he has not deigned it worth his while to say one word in opposition to it, or any other member of the Government or supporter of the Government. There has been talk of setting up of a Court of Criminal Appeal. Whether one exists at present or not I am not sure, but apparently the judgment of the Ministry is that the Courts set up by the military authorities were so perfect in their judgments that they cannot make a mistake respecting the guilt of a person. They might make a mistake respecting the amount of a sentence, but they cannot make a mistake respecting the guilt. It is very pleasant, I am sure, to the Ministry to be able to think that their work, having looked upon it, could be pronounced so good as not to require any qualms as to the perfect lucidity and sound judgment of the several military courts, with whose composition we are not very well acquainted. It would be only fair to those men and to the public to know the names of those perfect judges of those very perfect tribunals, who cannot make a mistake, and whose judgments cannot be varied, but whose sentences may be. This is an Indemnity Bill, and the proposition is not only to indemnify the courts or tribunals, or the persons constituting those tribunals, but to say that they were perfect in their judgments, and that no Court of Appeal or Board of Commissioners established to review a sentence could possibly determine that a judgment was against the weight of evidence, or that the prisoner should not have been convicted. All that they can say is that the judgment was sound, but that the sentence was too

severe. One would like, if possible, to understand or get some idea from the Minister as to what explanation could be given of his refusal to allow the Board of Commissioners to annul the sentence. Perhaps the Minister is doubtful of the wisdom of this Bill at all; perhaps he has no confidence in these Courts, and is pushing forward this Bill against his will and better judgment, because he is compelled to do so, and perhaps he dare not express his views about the amendment for fear he might state his own views. I wonder if that is the explanation of his silence on this amendment? Surely a Court of this kind, that has power to review sentences, and to be composed of persons holding, or who have held, judicial office, are not to be restricted to saying “ditto” to a secret military court or tribunal.

I can better understand now why the Minister refuses to certify or ensure that these Commissioners should be men who held high judicial office. He knows any person having held high judicial office would be less liable to accept a position which would only allow him to reduce a sentence, and would carefully confine him to reduction of sentences or confirming of sentences, but would not allow such a judicial person to say that the judgment of the Court was a bad one. That explains the attitude of the Minister in regard to the persons who may be appointed to this Board of Commissioners. They must be people who cannot decide that the judgment of the secret tribunal was an unsound one, and they must be of a character which will confirm the judgment of those earlier Courts, and confine their reviewing to whether the sentences were excessive or not. We will be able to form a judgment of the character of the men who will form these Boards of Commissioners under these circumstances. They will certainly not enhance their reputations if they accept office under these extraordinary conditions, that they as a Board of Commissioners who have held judicial offices, may review sentences, and may reduce sentences, but they may not say that the sentences of the Court were invalid. It certainly is an extraordinary state of mind to be revealed. I have no doubt the Minister does not really believe in this clause, but he has been obliged to

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put it forward, and dare not justify it for fear he might be tempted to reveal his own mind.

Mr. GAVAN DUFFY: Is the President going to make any answer to the case that has been put?

The PRESIDENT: I am waiting for the case.

Mr. GAVAN DUFFY: I must protest against the way in which the minority in this House is treated by the President, who relies upon his automatic majority to troop in here at the sound of the division bell and vote upon a subject on which they know nothing whatever, without having even listened to the arguments, pro or con, and simply do what the President tells them to do. The President himself now does not condescend to answer a very serious matter set out by Deputies in this House. I hope the country will show him where he stands.

The PRESIDENT: If it does not, it will not be your fault, I am sure of that. I wonder if Deputies take the pains to read these Bills, or do Deputies really consider their position seriously at all? Was the Deputy who has just spoken here yesterday evening or not? Perhaps he had a more important engagement, and perhaps he only comes in here to amuse himself. If I were gifted with the same amount of verbosity as the Deputy I would not confine myself to the words in the section, but I think the Deputy has not read it carefully. He has certainly not studied it, but he is contenting himself with rhetoric and with firing incense at himself, and when he had too much for himself he distributed some of it to the benches opposite. What is meant by reviewing or reducing sentences? Cannot one reduce a sentence of five years, of

which six months has run, by four years and six months, or must we put into a Bill an interminable list of words in order that Deputies would have an opportunity of airing their views. Last evening we spent two and a half hours on this Bill. I entered into a very long and very careful explanation of its provisions, but that was all useless, because Deputies had not read it and were not interested enough in it. There are two orders in the community so far as I can see which appeal to the Deputies opposite, themselves and the Irregulars. They will deny that, but they are endeavouring here to secure, as far as possible, and as far as their ability suggests, means of escape for these men. They hold up to ridicule the courts that have been established, or the tribunals that have been established, by the resolutions of this Dáil. In a sentence, they discount and they discredit, and they show their lack of confidence in the Army, and Deputy Gavan Duffy joins and assists them in that. We are asked, when we say that these tribunals have done their work well, to say if they are infallible. They are not infallible, and I have never claimed infallibility for them, but I do claim honesty for them, and I claim as much honesty for them as there is in this House, or as there is on the far benches amongst the minority in this House. I claim that they have done their work well, because I know of some cases in which guilty persons came before them, and because certain technicalities had been neglected, these persons were found "not guilty." The Deputy says I have not much faith in this Bill. I have a lot more faith in it than he has. I have read it, and studied it carefully, and I believe everything that I have said about it, which is a good deal more than I would be in a position to say for those who have spoken against it.

Amendment put.

The Dáil divided: Tá, 11; Níl, 39.

Tá.

Tomas de Nogla.
Riobard O Deaghaidh.
Tomás Mac Eoin.
Seoirse Ghabhain Uí Dhubhthaigh.
Aodh O Cúlacháin.
Seamus Eabhróid.

Liam O Daimhín.
Cathal O Seanáin.
Risteárd Mac Fheorais.
Domhnall O Muirgheasa.
Domhnall O Ceallachain.

Nil.

Liam T. Mac Cosgair.
Gearóid O Súileabháin.
Seán O Maolruaidh.
Micheál O hAonghusa.
Seán O hAodha.
Seamus Breathnach.
Peadar Mac a' Bháird.
Deasmhumhain Mac Gearailt.
Micheál de Duram.
Seán Mac Garsaidh.
Risteárd O Maolchatha.
Pilib Mac Cosgair.
Domhnall Mac Cárthaigh.
Maolmhuire Mac Eochadha.
Earnán Altun.
Gearóid Mac Giobúin.
Liam Thrift.
Eoin Mac Neill.
Liam Mag Aonghusa.
Piaras Béaslai.

Fionán O Loingsigh.
Seamus O Cruadhlaoich.
Cristóir O Broin.
Risteárd Mac Liam.
Caoimhghin O hUigin.
Proinsias Bulfin.
Tomás Mac Artúir.
Seamus O Dóláin.
Liam O hAodha.
Proinsias Mag Aonghusa.
Eamon O Dúgáin.
Peadar O hAodha.
Seamus O Murchadha.
Liam Mac Sioghaird.
Tomás O Domhnaill.
Earnán de Blaghd.
Uinseann de Faioite.
Seamus de Burca.
Micheál O Dubhghaill.

Amendment declared lost.

An Leas-Cheann Comhairle took the Chair at this stage.

CATHAL O'SHANNON: I beg to move Amendment No. 3:—To add to Sub-section (4) of Section 3, the words, "provided that such rules shall not prevent such Board of Commissioners from holding any of its sittings in public, and that nothing in this Act shall permit such Board to sit and hear in secret such case for review."

The proviso that I desire to insert provides that such rules as are made shall not prevent the Board of Commissioners from holding any sittings in public, and that nothing in this Act shall permit such a Board to hear in secret such cases for review.

The intention of the amendment is to secure that the sittings of these Commissioners shall be, at all events, not in secret, and that in that respect, at least, their proceedings shall be brought into conformity with the Constitution. As the section stands, it is quite open to the Minister, when making the rules bearing on the Board of Commissioners, to provide that the Commission sit *in camera*: that, in fact, its procedure in that respect should just be the same as the procedure

of the military courts whose decisions it is bringing under review. The amendment would prevent a Minister from allowing or compelling Commissioners to sit in secret, and would not allow the Commissioners themselves to decide to sit in secret. A good deal could be said on the Boards as such, but if they are to be merely secret then they are even a greater sham than they have appeared on the face of it to be. I move the proviso.

MR. GAVAN DUFFY: Is it possible that this amendment also fails to meet with the approval of the President? I recall the Dáil in its ironical mood, somewhere about last October, solemnly pretending to pass in this Assembly a Constitutional Article which said justice—justice mark you—shall be administered in the Public Courts established by the Oireachtas. I suppose it would be letting the cat out of the bag to point out that the reason why these Boards are called Boards is that it is hoped to wriggle out of that Article of the Constitution. If they were called Courts they would have to sit in public. We will call them Boards. We will give them no power except a nominal power, that is worth nothing, and then, perhaps, the Courts will say they are not

[Mr. Gavan Duffy.]

Courts at all and may sit *in camera*. If the President is so proud, as he says he is, of the work of the Tribunals in question—for aught I know he may have excellent reason to be proud of it, but none of us know if he is as proud as he says—he ought to be delighted to let a little daylight into this whole performance. The whole proceedings have been in secret. Has the Executive any reason against allowing the review, such as it is, to be published, or the results of the review to be published? Even one authorised Dublin Pressman was not allowed to attend a trial. Apparently, no Dublin Pressman may attend the new performance. If the Executive wishes the country to have any confidence in proceedings which were secret originally, they must allow them to be reviewed openly, now that the war is over, now that their own Courts have officially declared that there is not a state of war. What have they to be afraid of? They are proud of the magnificent work of these Courts.

Are they afraid of the comments or of the decisions of the somewhat knock-kneed Boards that will be allowed to review but not to annul? What is the reason for this extraordinary inclination to secrecy, which is so prevalent in the Ministerial mind, and which, if Ministers knew their own minds is very much against the interests of the Free State

and of the Executive of the Free State. It is quite obvious to anybody reading this draft Bill that the document has been expressly and purposely drawn in such a way that the review should be held by a body which cannot be described as a court, and that this is done for the purpose of enabling the Executive, which appoints this Board, to have its further performance in secret likewise.

Professor MacNEILL: The object of this Bill is to provide indemnities. Its object is not to review or set up an inquisitorial system into military courts. If that is to be done it should be the subject of a special measure.

MR. GAVAN DUFFY: Nobody wants that.

Professor MacNEILL: No doubt the Deputies who have argued as we have heard would be jointly capable of producing such a measure, but the object of this Bill is to provide indemnities. Incidentally it provides means for reducing sentences. The argument is that it should not only provide means for reducing sentences, but also provide an inquisition into the character and conduct of the military courts and committees. It may be desirable to impeach those committees. It may be desirable to review their conduct, but if it is so desirable it is perfectly obvious that the place for bringing forward a proposal of this kind is not in this Bill of Indemnity.

Amendment put.

The Dáil divided: Tá, 10; Níl, 88.

Tá.

Riobard O Deaghaidh.
Tomás Mac Eoin.
Seoirse Ghabhain Uí Dhubhthaigh.
Aodh O Cúlacháin.
Seamus Eabhróid.

Liam O Daimhín.
Cathal O Seanáin.
Domhnall O Muirgheasa.
Risteárd Mac Fheorais.
Domhnall O Ceallaghaín.

Níl.

Liam T. Mac Cosgair.
Gearóid O Súileabháin.
Uáitéar Mac Cumhaill.
Seán O Maolruaidh.
Seán O Duinnín.
Seán O hAodha.
Seamus Breathnach.
Pádraig Mag Ualghairg.
Peadar Mac a' Bháird.
Deasmhumhain Mac Gearailt.
Micheál de Duram.
Seán Mac Garaidh.
Pilib Mac Cosgair.
Domhnall Mac Cárthaigh.
Maolmhuire Mac Eochadha.
Eamán Altun.
Gearóid Mac Giobúin.
Liam Thrift.
Eoin Mac Neill.

Liam Mag Aonghusa.
Piaras Béaslai.
Fionán O Loingsigh.
Seamus O Cruadhlaioich.
Cristóir O Broin.
Caoimhghín O hUigín.
Proinsias Bulfin.
Tomás Mac Artúir.
Seamus O Dóláin.
Liam O hAodha.
Proinsias Mag Aonghusa.
Eamon O Dúgáin.
Peadar O hAodha.
Liam Mac Sibghaird.
Tomás O Domhnaill.
Eamán de Blaghd.
Seamus de Burca.
Micheál O Dubhghaill.
Uinseann de Faoite.

Amendment declared lost.

Mr. GAVAN DUFFY: I should like the Dáil to consider this section very seriously before it passes. To my mind this section is by far the most objectionable feature of the Bill, much more objectionable than the Indemnity Clause that precedes it. The Minister for Education just now told us that what was wanted was indemnity, not inquisition.

Professor MacNEILL: No; I said that the object of this Bill was indemnity, not inquisition.

Mr. GAVAN DUFFY: Well, the object of this Bill was indemnity not inquisition. I think that that phrase shows a strange confusion of mind in such an eminent Minister as the Minister for Education, for this particular section does two very distinct things. First of all it validates the courts in order to put right the officers who manned these courts, and I have no quarrel with that. Secondly, it validates what the officers did, for the purpose of justifying sentences which may or may not have been right. These two things are very distinct. Upon the first, upon providing a legal sanction for the actions of men taken under these difficult circumstances, I am quite at one with the idea underlying the Bill. One knows that officers have an intense dislike to sit on courts-martial of this kind. One knows that they do their duty very reluctantly, and that they are only doing their duty. One knows they often do that duty at great risk, and, therefore, so far as giving them a personal indemnity goes, I have not a word to say against this section. But the Ministry does not stop there. Nobody wants an inquisition, to use the word of the Minister for Education, if that means an attack upon the particular men whose duty it was to man these courts-martial. But the Bill, although it is misnamed an Indemnity Bill, contains this most important proviso, the second part of this clause, which asks this Dáil to say that all and everyone of the sentences passed were perfectly right, although the whole thing was done in secret, although the officers, however excellent their intentions, were men unversed in legal matters, unused to sifting evidence, with only one legal person present at the court, and although they were acting at a time of considerable excitement when no man could entirely divorce his feelings from the subject matter of the case. No

ordinary man could entirely divorce the fact that this conflict was going on from the judgment of a court-martial of that kind. Therefore, while I have no objection at all to giving any indemnity you like to the men who simply did their duty, I have the strongest objection to registering in an Act of Parliament that these sentences, passed in such circumstances, were necessarily right, that the verdict was right, and the sentence was right, and that all that can be done is to allow the Board appointed by the Executive to look through the documents, without calling witnesses, to see whether or not it might be well to reduce sentences.

I do not think that is treating the matter seriously. It seems to me that the very first duty of an Executive which wants to have these sentences reviewed is to come before the Dáil with a Schedule containing all and every sentence passed since these Courts were instituted, to tell us how many there were, who were the men convicted, and what they were convicted for. There may be life sentences; there may be sentences of ten years penal servitude; we have no assurances, no knowledge, of what it is we are asked to say was necessarily right. That kind of special pleading that objects to attacks on a section of this kind on the ground that it is an attack on the Army, will not do. I have no doubt that nine-tenths of these men did their duty to the very utmost of their ability and that there were very few or no abuses, but they were not men qualified for this kind of work, and they were acting in times of great difficulty. Therefore, the proper course to have adopted was surely to have appointed a legal tribunal which would be a court in the true sense of the word, and which would be manned by people accustomed to weighing evidence, to examine all the evidence in these cases, and also to bring in a law dealing with the matter, for the Dáil will observe that this Court of Review is given no indication whatever as to the basis on which it is to proceed, what code it is going to administer. It is not told what code it is to administer. There is, of course, no legal code. There ought to have been. There is only that very vague Resolution of the Provisional Parliament, which is not law. Instead of bringing in an Act on the analogy of the Botha Act, the Ministry apparently proposes to leave the matter at that—that

[Mr. Gavan Duffy.]

we intend to appoint men to only look through the whole proceedings, and it will be quite enough to say that such and such a sentence should be reduced. It is not treating the country fairly. The country is entitled to know that these sentences, particularly if they are to be carried out, as the Public Safety Bill provides, are beyond all possibility of question; that they have been investigated by people accustomed to administering the law, and investigated on the basis of a law of this country. A special law may be necessary. Very well, introduce it, but to ask courts or boards with no real power, secretly to investigate these secret performances and tell them that all they may do is to review sentences and give a little less, or a good deal less, is not treating the country as the country is entitled to say that it should be treated. It is not only sentences, but judgments and orders passed by these courts, which we are asked to validate, completely in the dark, and if Deputies turn to the second part of the section they will see that in the reviewing sub-section you are dealing with men who, if they defended themselves at all, were defending themselves under circumstances of considerable difficulty. It is no use saying that 99 per cent. of them are guilty. They may be. Those who are not are entitled to a fair show. I do not think that anybody with any experience of law would say that they are sure to get justice under the scheme proposed now, by merely allowing the sentences to be examined with a view to reduction. The whole proceedings from beginning to end ought to be examined by competent people. I ask that in the interests of justice in this country, and in the interests of settled conditions, as long as you have people smarting under a sense of injustice you are not going to have settled conditions, and I do not think it is fair to ask the Dáil, because the present Government happens to have a large majority, to pass a law in the dark stating that everything that is being done in the way of sentences is quite right, except that the Board may possibly reduce the sentences. It is not treating the matter seriously, and it is too grave a matter to be treated in this way.

AN LEAS-CHEANN COMHAIRLE:

I wish to remind the Deputy that his ten minutes have expired.

Professor MacNEILL: The Deputy three or four times in the course of his address asked the Dáil to believe that the object of this section was to declare that the sentences passed were quite valid and perfectly right. No one here will accuse the Deputy of stupidity. The Deputy is a lawyer; he is accustomed to reading legal documents, and he knows as well as anyone knows, that what this section declares is that certain things which have been done are to be validated. That does not say anything as to whether they were right or wrong. It declares them to have been valid. The Deputy knows very well the difference between being valid and being right and wrong, and at the moment of making his speech he knew the difference between the word "valid" and the words "perfectly right." Nevertheless, he has talked to us about voting down by a majority. He endeavours to create the impression, either here or wherever else his words go, that this section purports to do something which he knows perfectly well it does not purport to do. It declares these things to have been valid. He knows perfectly well that it is said to be artificial validity for these cases whether they were in the first instance valid or not valid. That is the meaning of indemnity. The Deputy also knows perfectly well that indemnification of that kind is a usual thing following the state of suspended law and military action, such as this particular measure is dealing with.

Mr. GAVAN DUFFY: I expressly stated that I did not object to the indemnification.

Professor MacNEILL: Very well. I hope we have disposed of that four-times repeated statement.

Mr. GAVAN DUFFY: I am coming back to it.

Professor MacNEILL: That the object of this was to declare that the sentences passed were perfectly right. It simply makes them valid, valid for a particular purpose, that is, so valid that the persons who were engaged in holding these tribunals cannot be impeached for what they have done. But if they cannot be impeached in one way they are to be impeached in another way. They are to be indemnified. The Bill is declaring their actions valid, and provides indemnity, but, nevertheless, it is to hold an inquisition, and that was distinctly

demanding in the last statement of the Deputy, though disclaimed in his previous one—that is an inquisition into the character and conduct of these tribunals. That is not the object of the Bill. As I said before, if it is desirable to review the actions of the various military tribunals, and to set up a court of inquisition for that purpose, a measure should be produced for that purpose, and the thing should not be done under the cover of this measure of validation and indemnity.

Mr. GAVAN DUFFY: I remain absolutely unrepentant. The special pleading of the Minister who has just sat down, in his last statement has gone beyond anything I have heard for a long time in the Dáil. He says that the object of this Bill is to give an artificial validity to the sentences. I thank him for the phrase, "artificial validity of the sentences." What I said was we were asked to declare these sentences perfectly right, subject to the provision of the Board reviewing them. No arguments or misuse of words can alter the fact that the effect of this Act, taken with the Public Safety Act, in which it was declared that sentences were to be served until they expired or were discharged, the effect of which, coupled with this very limited and inadequate power of review, means that men will continue in prison whether they are rightly sentenced or not unless this Board, looking at their papers, chooses to think that their sentences ought to be reduced. Therefore, it is true to say, that we are asked to give approval of sentences of which we know nothing. If not, I think the Minister rather makes the case worse by talking about artificial validity, or sentences that are not deemed right, are to be deemed valid. If that is of any use to the Minister I make him a present of it.

Professor MacNEILL: I make you a present of it.

Mr. JOHNSON: If I understand this argument, it is that the courts we set up are to be validated, every sentence is deemed to have been valid and within the lawful jurisdiction of the tribunal. So far, so good. The Minister says that this is not intended to be anything more than a validation Bill, an indemnity Bill, validating the actions of these courts. There is to be a Board of Commissioners to review these valid sentences, sen-

tences which may not have been right, or just, or well-founded, but were within the jurisdiction of the courts. But the Board of Commissioners which may review the sentences may not review the verdict of these valid courts. They were considered to have been within the jurisdiction of the military courts, and though they may have been wrong, ill-founded, against the weight of evidence, and entirely beyond the judgment of trained judges, nevertheless they are to be not only valid, but the verdict is to be confirmed so far as this Bill is concerned. The Minister says you may introduce another Bill to give power to a court to annul the sentences, but the Ministry does not care about annulling sentences. They say that these courts that they set up were courts of sound judgment, infallible judgment, as a matter of fact.

Professor MacNEILL: No.

Mr. JOHNSON: Infallible judgment. They may have made mistakes in the sentences, but their judgment is infallible.

The PRESIDENT: May I explain? On no occasion has any member of the Ministry made statements that the courts were infallible. Never at any time, in my recollection, have they done so.

Mr. JOHNSON: No; no member of the Ministry has made that statement, but that is the only inference from the production of this Bill at the end of a session, at the end of a Parliament, at the end of the responsibility so far as legislation is concerned, of the Ministry. They say, "under our initiative we set up courts, and these courts formed judgment as to the guilt or innocence of a prisoner."

These Courts that sentenced prisoners were not legal Courts but it was essential that they should be given powers, and that their powers should be validated afterwards. The Ministry produced an Indemnity Bill and a Bill for validating these Courts, but it has not introduced a Bill which would provide a Court of Appeal. The omission in this Bill speaks as loudly as the things in it. The Minister refuses to allow the word "annul" to be inserted, so that the Commissioners must not be allowed to annul sentences. They must say that the verdicts of these secret Courts are valid. These secret Courts must be considered to be infallible in their

[Mr. Johnson.] findings, though they may be fallible in their sentences, and we are not going to introduce a Bill which gives the power of appeal. That means that men may have been sentenced against the weight of evidence, and even without evidence, and that an innocent man is confirmed in his guilt by these Commissioners. He must be considered guilty because he was sentenced. There may be a review of the sentence; the sentence may be confirmed or reduced, but there is no power given in this Bill, and the Minister refuses to add to the powers of the Court of Commissioners, to say that the verdict is against the evidence and that the man was wrongly convicted. I say that is by inference undeniable, an assertion or a plea, that the courts were infallible in their judgment, whatever they may have been regarding the sentences inflicted. I think the Minister is grievously at fault in not having made provision for the retrial if that were necessary, of those people who were convicted by these secret courts. Validate the Courts if you like. Indemnify the officers and the judges in these courts and tribunals for any act they committed by the authority of the Dáil but do not assert, or let it be thought that by your refusal to allow an appeal to a public court you believe in the infallibility in these tribunals you set up.

The PRESIDENT: Listening to the two speeches that we have just heard, I was reminded very much of Mr. De Valera's mental acrobatics at the time when he was somersaulting in and out of the British Commonwealth of Nations. It reminded me of the entertainment produced here in Dublin—I think it was the pantomime of Cinderella—some years ago in which there were two ugly aunts or sisters, I forget which, of Cinderella. They were refused admittance into the ballroom by the old footman, and the Prince seeing them, came forward and introduced them, and they pirouetted, saying, "Now we are in, now we are out, and now we are neither in or out," with one foot on one side of the door, and the other on the other side. The Bill is, as the Minister for Education says, an Act of Indemnity. The Deputy who was there yesterday evening, and the Deputy who was not, are mixing up two Clauses, 1 and 3, of the Bill together. Yesterday we

validated the sentences. They were declared valid. It is no compliment for us to do that. The officers concerned are under no obligation to us for having given them that indemnity. You asked them to do certain work, you provided they should do it, and put them on certain Committees. They have done that work, and the very least you can do is to give them that indemnity. How can you give them that indemnity? You must validate the sentences of their courts and the Committees. I have no hesitation in saying there was no miscarriage of justice as regards finding the men guilty on the evidence. I am not claiming infallibility for these courts, or saying that there may not have been mistakes, although I doubt it very greatly, and I believe the Deputy knows in his heart that that is so.

Mr. JOHNSON: The Minister knows; we do not.

The PRESIDENT: For the last six, seven or eight months every possible criticism that could be passed upon these officers has been passed. There are two points on which objection has been raised. One is the terminology of this Act, and its various clauses.

Mr. JOHNSON: And the keeping of the sentences secret?

The PRESIDENT: Yes; and the Deputy knows the reason why. It was in the interest of the lives of the officers that these things were kept secret, and now all this tomfoolery about having open courts in which people want to pose as champions of liberty is all very well for a headline; but it was not that that secured us our liberty in this country. It was these men who, without any guarantee from us did their duty, and it is now our duty to see that their sentences are validated, and that they get bare justice—nothing more.

Nothing is easier in the world than to say that because the court was secret the sentences were wrong and unjust. It has been the sport of political platforms in this country for generations to say the Executive Government or authority whatever it is, is wrong, unjust, unfeeling, unsympathetic and cruel. I have already said here in this Dáil that I know of at least one case, and I am sure I have heard of several others, but I have one

prominently before my mind, in which a man guilty of murder was acquitted by one of these courts, because a mere technicality of the law was not complied with in connection with the prosecution. Deputies think when they come here and pour out their rhetoric that they alone are the guardians of the liberty in this country. You had officers who knew full well what they were doing in a case like that, and knew that they would be perfectly justified in finding that man guilty, but they emphasised their honour once a case of that kind was put before them just as a High Court judge might do in very difficult times, and in a manner that even a High Court judge might not do. I think it is an abuse of the rules of this Dáil that Deputy Gavan Duffy who had not time to come here yesterday when we were dealing with the section on the validation of sentences should come here and on another section show his form because he has been up against the Indemnity Act by raising questions on it. I think that not a scintilla of a case has been put up against the Indemnity Bill in the form in which it is submitted to the Dáil. I put it that it is to the honour of every man in the Dáil, whether he voted for it or not, but being a member of the Dáil, he was responsible for its passing, should now take responsibility for the action of these officers who carried out the duty when they had no guarantee except their sense of public duty to guide them—I say it is due to these officers that they should get the validation asked for here. It is another question altogether and apart from this whether the sentences should be reviewed, but the validation is a matter upon the honour of the Dáil, and the Dáil has no option but to grant what is asked for.

Mr. JOHNSON: The Minister's logic is peculiar and wonderful. He quotes an instance of a court which, because of a technicality, refused to find guilty a person who was obviously guilty of murder. The court which he speaks of was strict in the observance of its duty, and strict to the point of stretching the law in favour of the prisoner. I am prepared to admit that that defence of the court will apply to every other court which was set up under this Act, and I am prepared to admit that every court acted in every case in the most honourable way possible. I am prepared to

admit that, in the absence of proof to the contrary. But that does not for the moment affect the question that is at issue. We are not now considering the honour, the trustworthiness, the good faith of the officers who constituted these courts. You are not doubting the validity of the courts when you allow the prisoner the right of appeal to the High Court; you are not denying the validity of the lower courts when you allow an appeal to a higher court. You are not holding up the judges of the lower court to opprobrium simply because you say they may have been mistaken in their judgment, and you are not merely asking the higher court to review the sentence on a prisoner when you give him the right to appeal; you are throwing no slur on the lower courts because you doubt their wisdom and declare that they may have been fallible. The Minister's passion is quite uncalled for. He refuses to concede the suggestion that these courts may have been misguided or unwise in their verdicts; he refuses to admit that they could have been wrong and suggests to us the reason, and the reason is, because the courts were secret. He says we are to infer from that that the sentences were just. We say that we have no right to assume that because the courts were secret the sentences were just; we have no right to assume that because the courts had his confidence, and because they were set up by the Executive Council, their judgments were always wise, and their verdicts could never be upset by Superior Courts. That is the contention of the President, and he tried to hide that up by charging us with denying the uprightness, the straightforwardness or the honour of the officials who constituted the courts. The position the President is taking up is this: "we set up these courts; we were satisfied with the men who formed them, and, therefore, they could not make a mistake."

The PRESIDENT: Certainly not.

Mr. JOHNSON: That is the position. The President denies it, but why did he refuse to accept the word "annul," giving these Boards of Commissioners the power to annul the sentences?

The PRESIDENT: Because it is verbosity.

Mr. JOHNSON: The President says the only way out is to introduce a new measure. He comes to us at the end of a Parliament and says, "Introduce another measure to allow these sentences, not merely the sentences to be reviewed, but the verdicts to be appealed against."

The PRESIDENT: To keep the Deputy right, I desire to say that I said nothing of the sort.

Mr. JOHNSON: The President's actions speak more loudly than his words, but that is what he said in effect; in effect he is refusing to allow any verdict of these courts to be appealed against. He says the men sentenced must serve their sentences; if the Board of Commissioners decides that the sentences should be reduced they may be reduced, but the verdicts must stand.

The PRESIDENT: Certainly.

Mr. JOHNSON: A prisoner who is tried before these courts in secret must bear the slur of guilt, even though this Board of Commissioners says that there was no justification for the sentence, and remember they have no right to declare that the verdict was wrong. I am not prepared to admit that these courts were infallible. I claim that there ought to be some opportunity for the people who were sentenced by these courts to appeal to a tribunal when times are more peaceful, and when some opportunity may be given for not only a review of the sentences, but a review of the judgments.

Mr. GAVAN DUFFY: It is always edifying to see the President waving flags of distress, waving them wildly as he has just now being doing, and waving flags that we all have seen so often in this Dáil. He said, for instance, that I made an attack upon these unfortunate officers; whereas, in fact, I went out of my way to pay a tribute to men who had the doing of unpleasant duties. But one expects these things. Three times the President, in the typical way that he can meet an argument, asserted that I was not here yesterday. The President might have taken the trouble to acquaint himself with the facts. The Sneaker knew that I had a more important engagement than attending upon the President rushing Bills through this House, and that I was unable to be here yesterday.

I can assure him that it was not through lack of interest in the subject matter of this particular performance. The President talked of people pouring forth torrents of rhetoric. That was rather good from the President. He should know what a torrent of rhetoric is. But when the President is not engaged in making election addresses to the Dáil he sometimes recollects his better feelings. There is one little matter in this section to which I desire to direct his attention, in the hope that, before this Bill finally becomes law, he may see that it is adding another injustice to the Bill by making it compulsory upon prisoners to apply to this Review Board. It is quite natural that men in their circumstances will be very reluctant to go before these Boards and quite natural that they should not have much confidence in these Boards, in view of the kind of Board that is set up here. Even if that were not the case I put it to the Dáil that it is obvious that the sentences, at least, from the President's own point of view, to say nothing about the verdict, should be re-examined, every one of them automatically and independently of whether the prisoner asks for re-examination or not. No man can honestly tell this Dáil that the sentences passed under the circumstances under which those sentences were passed are necessarily right. I think the President in his better moments would realise that it is only justice to have these matters reviewed, whether or not the review be specifically asked for by the individual concerned.

The PRESIDENT: There is a fundamental difference between Deputy Johnson and myself on this question. Deputy Johnson wishes to give a sort of half whitewashing certificate of indemnity to those officers. I will have none of that, as far as I am concerned, and the Dáil will not have it. You have got either to stand over what these men have done or not to stand over it. You had no right to ask them to do those things unless you were prepared to back them. The only way you can back them is to say that the sentences of those courts were valid. The Deputy does not consider this necessary. A consideration that the comfort or perhaps the discomfort under which certain persons are suffering is a matter of the first importance with him. We differ there. The first consideration is for

the people who were responsible for this Dáil setting up those courts.

Mr. JOHNSON: My consideration is for justice.

The PRESIDENT: You may call it justice. If that is your interpretation of what justice is, it is not mine. I believe it is not the interpretation of the majority of the people of the country.

As regards flags of distress, the only man I ever saw hoisting a flag of distress is the Deputy who mentioned the matter. He is the only one I ever saw who hoisted it both here and outside. When he was in the Executive Council he was always putting up one. I am sure when you get into the habit of that it is hard to get away from it. As far as those people having an objection to applying to these Boards, I am not going to facilitate people like these to live in this country, and always to be in the position of saying we are acting consistently. I am not going to afford them any facility for doing that. If they do not accept citizenship the sea is before them, and they can get out. If they do not get out and if they dispute the rights of the rest of us to have citizenship here they will go under, and they will go under rapidly. There is no use in telling us they will not accept our Board. They have accepted what they call the British courts; they were there yesterday, they were there to-day, and they will go there to-morrow. A few weeks ago they were in London and they went before these courts there.

Mr. GAVAN DUFFY: Are these Boards Courts?

The PRESIDENT: No, they are not, and the Deputy knows they are not. But perhaps they will give us just a decision as the courts to which the Deputy's friends went yesterday and to-day; perhaps more so. Perhaps the people who adjudicate here will have as much interest in the country—in the stability and security of the country—and will give just as honest decisions as the courts to which the friends of the Deputy went yesterday and to-day.

Mr. GAVAN DUFFY: Is it in order for the President to refer to these gentlemen as my friends, or to refer to the Judges of the Courts as if they were not considering the public interest because they decided against his *Executive*.

The PRESIDENT: In this Dáil, on more than one occasion the Deputy has thrown scorn on the Boards of Commissioners that we are going to set up.

Mr. GAVAN DUFFY: Hear, hear.

The PRESIDENT: Is he at liberty to do that, and am I not at liberty to say that these Commissioners will be as honest as friends of his? If the Deputy thinks I cannot do that I make him a present of the sort of discussion that he thinks we ought to have here.

Motion made and question put: "That Section 3, as amended, stand part of the Bill."

Agreed.

Motion made and question put: "That Sections 4 and 5 stand part of the Bill."

Agreed.

The PRESIDENT: I move the Title.

Question put and agreed to.

[THE DAIL RESUMES.]

Bill, as amended, reported.

AN LEAS-CHEANN COMHAIRLE: When is it proposed to take the next Stage?

The PRESIDENT: I see no objection to taking it now.

CATHAL O SEANAIN: Níl sin aon-tuighthe.

Mr. GAVAN DUFFY: I submit, as a matter of order, that this Bill has been rushed in the most extraordinary way. It was debated here on the very day we received it coming into the Dáil, without any previous notice, and I think it would not be fair, in view of its importance, to rush it through this afternoon.

The PRESIDENT: If that is so, I will have to move the suspension of the Standing Orders to enable us to take the remaining stages now.

Mr. JOHNSON: Does that mean that we are not to be given any opportunity to amend the Bill, or to review it, or to consider it in the light of any change which has taken place.

AN LEAS-CHEANN COMHAIRLE: It is open to members to move any amendment they wish.

Mr. JOHNSON: I put it to you, An Leas-Chinn Comhairle, that it cannot be said to be a matter of urgent importance—a matter that would require the suspension of Standing Orders, to allow a Bill of this nature to be rushed through without proper consideration. The Dáil ought not to be asked to suspend the Standing Orders on a matter of this kind.

AN LEAS-CHEANN COMHAIRLE: I would prefer that the Ceann Comhairle would give a ruling on this point.

CATHAL O'SHANNON: On a point of order, I submit you will have to go on to the next item on the Orders of the day.

AN LEAS-CHEANN COMHAIRLE: As the Ceann Comhairle is in the building, and as this is a rather difficult point to decide, I propose to ask him to give a ruling.

AN CEANN COMHAIRLE (having taken the Chair). What is the urgency of taking the remaining stages of the Bill this evening?

The PRESIDENT: In view of what has happened to-day, it is quite possible that the persons for whose responsibility we are liable may be affected unless immediate effect is given to this Bill. I think that is a matter of very, very great importance. We are told that certain people have declared that the war is over. By reason of that fact, a number of

persons who have trust in us, and who unhesitatingly gave us their support, during a difficult period, now have a natural prescriptive right to look to us to see that they are safeguarded, and that they are held immune for certain acts that have been done during the disturbance. I think that is a matter of the greatest possible public urgency.

Mr. GAVAN DUFFY: May I point out that a section in the Public Safety Act deals with the very matter the President has in mind. The Ministry insisted on putting in a section that prisoners sentenced shall continue to serve their sentences until the Bill expires or until they are discharged. That is the very thing the President is dealing with. If this Bill is taken to-morrow I fail to see what damage it will do the President.

The PRESIDENT: It will do no damage to me. I am safe enough.

AN CEANN COMHAIRLE: I think the motion can be accepted to suspend the Standing Orders for consideration of this Bill.

The PRESIDENT: I move the suspension of the Standing Orders to enable us to take the further stages of this Bill now.

Mr. D. MCCARTHY: I second the motion.

Question put.

The Dáil divided: Tá, 45; Níl, 11.

Tá.

Liam T Mac Cosgair.
Donchadh O Guaire.
Gearóid O Suileabháin.
Uáitéar Mac Cumhaill.
Seán O Maolruaidh.
Seán O Duinnín.
Micheál O hAonghusa.
Seán O hAodha.
Seamus Breathnach.
Pádraig Mag Ualghairg.
Peadar Mac a' Bháird.
Darghal Fíges.
Deasmhumhain Mac Gearailt.
Seán O Ruanaidh.
Micheál de Duram.
Ailfrid O Broin.
Seán Mac Garaidh.
Risteárd O Maolchatha.
Pilib Mac Cosgair.
Domhnall Mac Cárthaigh.
Maolmhuire Mac Eochadha.
Earnán Altun.
Gearóid Mac Giobúin.

Liam Thrift.
Eoin Mac Néill.
Liam Mag Aonghusa.
Pádraig O hOgáin.
Pádraic O Máille.
Piaras Béaslaí.
Fionán O Loingsigh.
Seamus O Cruadhlaoidh.
Criostóir O Broin.
Caoimhghin O hUigín.
Proinsias Bulfin.
Seamus O Dóláin.
Liam O hAodha.
Proinsias Mag Aonghusa.
Peadar O hAodha.
Seamus O Murchadha.
Liam Mac Sioghaid.
Tomás O Domhnaill.
Earnán de Blaghd.
Uinseann de Faoite.
Seamus de Burca.
Micheál O Dubhghaill.

Níl.

Tomás de Nógla.
Riobárd O Deaghaidh.
Tomás Mac Eoin.
Seoirse Ghabháin Uí Dhubhthaigh.
Aodh O Cúlacháin.
Seamus Eabhróid.

Liam O Daimhin.
Cathal O Seanáin.
Domhnall O Muirgheasa.
Ristoárd Mac Fheorais.
Domhnall O Ceallacháin.

Amendment declared carried.

Mr. GAVAN DUFFY: Is that an adequate majority, Sir, under the Standing Orders?

AN CEANN COMHAIRLE: Yes, forty-one is the majority provided for in the Standing Order.

MOTION FOR LATE SITTING.

The PRESIDENT: I have to move: "That the Dáil sit later than 8.30 p.m. to-night," in order to consider a matter of public urgency arising out of a decision of the High Courts to-day. I propose that at any convenient hour we should adjourn, either for tea or dinner, but it is essential that we should sit late in order to deal with this matter, which is of the first importance.

Mr. JOHNSON: Will the Minister tell us what this matter is?

The PRESIDENT: The introduction of a Bill dealing with the Public Safety Act which has just been passed, and of which I will give notice later on. It appears that it is held that some Resolution should have accompanied the Bill which would bring it into immediate operation,

and that is the particular function we intend to perform in passing this Bill to-night.

Mr. JOHNSON: Is it within the Order that we should be called upon to sit late to deal with an entirely new matter, of which no notice has been given until now? Surely that is not the intention of the Orders?

AN CEANN COMHAIRLE: The Order is: "A motion that Dáil Éireann shall sit later than 8.30 o'clock on any evening may be made without notice not later than 6.30 o'clock p.m. on the same evening." The Standing Order apparently simply contemplates sitting beyond 8.30 p.m. There is nothing in the Order about emergency or the nature of the business.

Mr. JOHNSON: Surely that assumes that it is to deal with business, of which due notice has been given, so that Deputies who may not be present will understand that no new business, perhaps of an entirely foreign character, shall be brought forward. Surely it is stretching the rights of the President to ask us to

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sit late to deal with a matter of which no notice has yet been given. I submit that it is going entirely outside the spirit of the Standing Orders, whatever the latter may be.

The PRESIDENT: There are times when it may be necessary to go outside the spirit of the Standing Orders, or the spirit of the law as it stands. No injustice is done to any Deputy who is within the ambit of the circulation of the ordinary newspapers, through the bringing forward of this motion this evening. This matter that I am going to deal with in the introduction of the Bill of which I will give notice later on, is in the newspapers. It is a matter of the first importance. It is known to every person who reads newspapers, or who sees placards and it will be evident when the business is brought forward that it is of such importance that it would be our duty to bring it forward.

AN CEANN COMHAIRLE: It is possible, in special circumstances, and after a suspension of the Standing Orders, to consider a matter which is not on the Order Paper. Should it be necessary to sit late for the consideration of such a matter I take it that under this particular Standing Order a motion can be moved to sit later than 8.30. No restriction is set down in the Standing Order, and the matter which the President says he desires to take after 8.30 p.m. cannot be taken unless the President gets the leave of the Dáil to take it, in the requisite manner. From that point of view I think he is precluded from taking up new matter unless he fulfils the requirements of the Standing Orders, but he is not precluded from moving that we sit later than 8.30, because the matter on which he desires to speak is not a matter on the Order Paper. Otherwise, this Order would be a contradiction of another.

The PRESIDENT: I would like to know for my own guidance if it would be necessary to indicate the particular business I intend to deal with. It is for bringing in a Bill which will ensure that the Public Safety Act which has been held by the Courts to be non-operative for seven days, shall become operative, and have the force of law directly this Act is passed. That is, having regard to

the circumstances, I think, a subject of the first importance, and it is to bring under your notice the urgency of the matter that I move for permission to sit after 8.30 p.m., and, I think it will do during the course of the evening to ask for permission to bring in that Bill rather than to ask it now, a matter that must be decided before 6.30 p.m.

AN CEANN COMHAIRLE: The motion must be made before 6.30 p.m.

Mr. DARRELL FIGGIS: On a point of order, not raising objections one way or another, but merely as a matter of procedure and order, arising less under the Standing Orders than the Constitution, I apprehend rightly the difficulty in which the President now finds himself I would like to enquire under Article 47 of the Constitution, which, I understand, is the matter that has created this difficulty, whether or not a resolution would not be sufficient? I have been studying this article of the Constitution, and I certainly believe a resolution will be sufficient.

AN CEANN COMHAIRLE: I do not think that arises, until we actually come to decide what the procedure will be. I think the matter which Deputy Figgis raised will arise later rather than now. Even for a motion of that kind it may be necessary to sit after 8.30, in which case a motion of this kind would be necessary.

Mr. JOHNSON: We are in the middle of a discussion on the Indemnity Bill, which is to validate acts done by the Executive in times of emergency, as they thought. I submit it would be very much more in keeping with the requirements of the case if they took any action that was necessary, bear the responsibility, and then come for an Act of Indemnity when there is time rather than come to the Dáil, and ask the Dáil to legislate, or ask them to pretend to legislate, simply to ratify an order the Minister has already made. I do not know what the Bill is, or what the necessity is, except in so far as the Minister has now said. I have not seen the newspapers, and I have not seen the placards, but I know from what the Minister has now stated, because the Ministry has made up their minds to have a rushed election, they are asking us to turn out Bills just as

though out of an automatic machine, and they come along again almost on the last day of the Session and ask us to introduce and pass another Bill. I do not know how many more will be brought forward before the Dissolution. If this matter is of such urgent necessity

that he must keep these prisoners in, do the thing yourself and then take the responsibility. Coming to the Legislature is only a pretence.

Question put.

The Dáil divided: Tá, 41; Níl, 12.

Tá.

Liam T. Mac Cosgair.
Gearóid O Suileabháin.
Uáitéar Mac Cumhaill.
Seán O Maolruaidh.
Micheál O hAonghusa.
Seán O hAodha.
Seamus Breathnach.
Pádraig Mag Ualghairg.
Peadar Mac a' Bháird.
Darghal Fíges.
Deasmhumhain Mac Gearailt.
Seán O Ruanaidh.
Micheal de Duram.
Seán Mac Garaídh.
Risteárd O Maolchatha.
Pilib Mac Cosgair.
Domhnall Mac Cárthaigh.
Maolmhuire Mac Eochadha.
Earnán Altun.
Gearóid Mac Giobúin.
Liam Thrift.

Eoin Mac Néill.
Liam Mag Aonghusa.
Pádraic O Máille.
Piaras Béalasáí.
Fionán O Loingsigh.
Seamus O Cruadhlaoidh.
Cristóir O Broin.
Caoimhghin O hUigín.
Proinsias Bulfin.
Seamus O Dóláin.
Liam O hAodha.
Peadar O hAodha.
Seamus O Murchadha.
Liam Mac Sioghaird.
Tomás O Domhnaill.
Earnán de Blaghd.
Uinseann de Faoite.
Seamus de Burca.
Micheál O Dubhghaill.
Eamon O Dúgáin.

Níl.

Tomás de Nógla.
Riobárd O Deaghaidh.
Tomás Mac Eoin.
Seoirse Ghabháin Uí Dhubhthaigh.
Aodh O Cúlacháin.
Seamus Eabhróid.

Liam O Daimhín.
Cathal O Seanáin.
Domhnall O Muirgheasa.
Risteárd Mac Fheoraís.
Domhnall O Ceallacháin.
Liam O Briain.

Motion declared carried.

INDEMNITY BILL, 1923—FOURTH STAGE.

The PRESIDENT: I beg to move that the Bill be received for final consideration.

Mr. JOHNSON: I beg to move an amendment to sub-section (3) (c) of Section 1, to insert after the word "negligence" on line 14, the words "or authorised assault." Paragraph (c) will then read "any civil proceedings founded on negligence or authorised assault in respect of damage to person or property or." The acceptance of this amendment would, I am sure, meet the desires of the Ministry, if we are to judge by their statements in the earlier proceedings on this Bill. They disavow any act of a malicious kind on the part of any servant of the State, and not only agreed but

expressed their desire to bring to justice any person guilty of any such act. While it is the function of the State to bring to the criminal court any person responsible for criminal acts, there is also the question of the right of the aggrieved person to sue for damages, not only in the case of negligence but for damage due to unauthorised assault, and I am sure the Ministry do not want to validate any act of that kind, or to indemnify any person guilty of any act of that kind. It is not the desire of the Minister, I am sure or of the Dáil, to relieve of liability any person who claimed to be acting in the interests of the public safety, or for the State, or any person who is guilty of cruelty, the ill-treatment of a prisoner or of violent assault, and who acted entirely on his own responsibility, and without authority. "While we must

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accept the words of the Minister, when he said the State would be not only willing but eager to bring to justice any offender, there is the further responsibility upon the Dáil, and that is to leave it open for everyone who has suffered from mal-treatment to bring an action in the civil courts against the persons responsible for that mal-treatment, if these persons were acting without authority. I think that the amendment is one that ought to commend itself to the Dáil, and I accordingly move it.

CATHAL O'SHANNON: I second the amendment.

The PRESIDENT: Unauthorised assault, I take it, must have some interpretation. An assault must be authorised, and it is open to every officer and to every man and to every citizen to prove that he has been authorised to assault some person in order to escape. I really cannot see the sense of introducing the amendment.

Mr. JOHNSON: Does the Minister as-

sure us that if this Bill becomes law a person who has been assaulted by another will still have the right to go to the courts against the offender, and that there is no indemnity under Section 1 against the person who committed the act of cruelty upon the prisoner without authority?

The PRESIDENT: The question is too vague either for myself or anybody else to answer. I think if the Deputy gets a transcript of the shorthand report of the question put by him, he will admit that no one could answer it.

Mr. JOHNSON: That answer of the President shows the necessity for introducing some words of this kind. I agree that the Bill is liable to the interpretation that if a person suffers damage from a soldier or a policeman, or some other person claiming to act in the interests of the State, that person may not have any redress whatever, but I want to ensure that he shall have some redress provided that the assault is not authorised.

Amendment put.

The Dáil divided: Tá, 12; Níl, 37.

Tá.

Riobard O Deaghaidh.
Tomás Mac Eoin.
Seoirse Ghabhain Uí Dhubhthaigh.
Aodh O Cúlacháin.
Seamus Eabhróid.
Liam O Daimhín.

Cathal O Seanáin.
Domhnall O Muirgheasa.
Risteárd Mac Fheorais.
Domhnall O Ceallachain.
Tomas de Nóglá.
Liam O Briain.

Níl.

Liam T. Mac Cosgair.
Gearóid O Súileabháin.
Uáitéar Mac Cumhaill.
Seán O Maolruaidh.
Micheál O hAonghusa.
Seán O hAodha.
Seamus Breathnach.
Pádraig Mac Ualghaigh.
Peadar Mac a' Bháird.
Deamhúmhain Mac Gearailt.
Micheál de Duram.
Seán Mac Garaidh.
Pilib Mac Cosgair.
Domhnall Mac Cárthaigh.
Earnán Aitún.
Liam Thrift.
Eoin Mac Néill.
Liam Mac Aonghusa.
Piaras Béaslaí.

Fionán O Loingsigh.
Seamus O Cruadhlaoich.
Cristóir O Broin.
Caoimhghin O hUigín.
Proinsias Bulfin.
Seamus O Dóláin.
Liam O hAodha.
Proinsias Mac Aonghusa.
Eamon O Dúg in.
Peadar O hAodha.
Seamus O Murchadha.
Liam Mac Sioghaid.
Tomás O Domhnaill.
Earnán de Blaghd.
Micheál O Dubhghaill.
Uinseann de Faoite.
Risteárd O Maolchatha.
Pádraic O Máille.

Amendment declared lost.

Mr. JOHNSON: I have an amendment to Section 3. It is to delete lines 44 to 53 inclusive, and to substitute the following: "Every Military Court or Committee (in this section called a military tribunal) which was established before the passing of this Act by the Military Authorities of the Provisional Government or of the Executive Council of Saorstát Éireann, and the establishment of which was ratified and approved by Resolution of Dáil Éireann on the 28th day of September, 1922, shall be deemed to be and always to have been a validly established tribunal, and every sentence passed, judgment given or order made before the passing of this Act by any such Military Tribunal, which was ratified by or which was duly passed, given or made in accordance with the said Resolution or any general order or regulation made by the Army Council, and laid on the table of Dáil Éireann, as required by said Resolution."

The object of the amendment is to incorporate in the Bill what the Minister in charge of the Bill assured us was the intention, and to safeguard against validating acts which may have been committed by Military Courts, Committees or Tribunals which were not authorised by the Dáil, and by the jurisdiction of the Army Council acting under the Dáil. The clause as it stands would have the effect of validating the actions of any Committee of a Military Court which may have been set up without authorisation. If the Bill passes in the form in which it is presented it would have the effect of relieving from liability of a civil or criminal character any person acting without authorisation, or even in defiance of the instructions or the authorisation of the Dáil. As it stands the section is too loose and too wide in its sweep. It speaks of every Military Court and Committee or tribunal established by the Act as the Military Authorities.

Deputy Figgis argued yesterday that the Military Authorities could only be taken to mean those authorities which were established by the direct authority of the Government or of the Dáil. There is a danger, I think, that that may not be the case, that "Military Authorities" may include people who would be acting outside the jurisdiction and authority imposed upon them. As the section stands, I submit it is open to the possible interpretation that minor officers who are

not acting as Military Authorities within a given jurisdiction may be deemed to be "authorities" referred to in this section. I want to ensure that any acts which are covered by this section shall be the acts of authorities established and approved by resolution of the Dáil—acts committed with that authorisation. I submit that the amendment will embody the intentions as expressed by the Minister better than the section as it stands. I am asking that the courts whose judgments are to be validated shall be the Courts or Committees or Tribunals which were ratified and approved by the Resolution of the Dáil; that only those Courts or Committees or Tribunals shall be validated, and that no other Courts shall, even by a possibility, be indemnified under the Act against illegal acts. I think that the amendment I am putting forward, if it is read and considered in the spirit in which it is put forward, will be accepted. It does, in fact, embody the assurance that was given by the Minister yesterday, that it was only those Courts which were authorised by the Dáil that were intended to be covered by this Act. Now, the Minister will say, or did say, that he knew nothing about any other Courts. There may not have been any other Courts, but there may have been Committees set up by military men who were regarded as being Military Authorities, and if the Bill passes in the form in which it at present stands, those Committees will be validated and the acts of those Committees will be validated. I want to ensure that only those Courts, Committees or Tribunals which were authorised by the Resolution passed by the Dáil in September come under this section.

Professor MacNEILL: This question was argued very exhaustively yesterday. I think the Minister for Defence made it quite clear that when he used the word "authority" he meant military authority. This is a legislative document, and when it becomes the law "military authority" will be subject to a legal interpretation. I think that no tribunal which acted otherwise than under due and proper military authority would be held by any stretch of the imagination to be a court entitled to indemnification and validation.

CATHAL O'SHANNON: In the Sub-section as it stands there is no definition of what is meant by the "Military

[Cathal O'Shannon.] Authority." In every case, particularly in the Army Act, legal definitions are given, but I do not know that a definition of "Military Authority" in that particular Act can be taken to apply to the words in this Act, because the military body mentioned in the other Act is not, in the sense in which this Act is, retrospective. Deputy Johnson's amendment does go a long way to define the

expression "military authority," or rather it puts down in black and white in the letter of the law and the Act what is meant and referred to by "authority." The sub-Section as it stands in the Bill does not do it, and I think that it is up to the Minister to accept the amendment, particularly if the amendment is really the expression of the opinion which was expressed here yesterday evening.

The Dáil divided: Tá, 10; Níl, 38.

Tá.

Tomás de Nógla.
Riobárd O Deaghaidh.
Tomás Mac Eoin.
Aodh O Cúlacháin.
Seamus Eabhróid.

Liam O Dairmhin.
Cathal O Seanáin.
Domhnall O Muirgheasa.
Risteárd Mac Fheorais.
Domhnall O Ceallacháin.

Níl.

Liam T. Mac Cosgair.
Gearóid O Súileabháin.
Seán O Maolruaidh.
Micheál O hAonghusa.
Seán O hAodha.
Seamus Breathnach.
Pádraig Mag Ualghairg.
Peadar Mac a' Bháird.
Deasmhumhain Mac Gearailt.
Micheál de Duram.
Seán Mac Garaidh.
Risteárd O Maolchatha.
Pilib Mac Cosgair.
Domhnall Mac Cárthaigh.
Earnán Altún.
Gearóid Mac Giobúin.
Liam Thrift.
Eoin Mac Néill.
Liam Mag Aonghusa.

Pádraic O Máille.
Fionán O Loingsigh.
Seamus O Cruadhlaoich.
Cristóir O Broin.
Caoimhghin O hUigín.
Proinsias Bulfin.
Seamus O Dóláin.
Liam O hAodha.
Proinsias Mag Aonghusa.
Eamon O Dúgáin.
Peadar O hAodha.
Seamus O Murchadha.
Liam Mac Sioghaird.
Tomás O Domhnaill.
Earnán de Blaghd.
Uinseann de Faolte.
Seamus de Burea.
Uáitéar Mac Cumhaill.
Seoirse Ghabháin Uí Dhubhthaigh.

Amendment declared lost.

CATHAL O'SHANNON: I beg to move: "In Sub-section (2) to delete the words "an Executive Minister," in line 57, and to substitute the words "High Court of Justice, Saorstát Éireann."

The sub-section as it stands says that whatever Board of Commissioners or by whatever name that reviewing body may be called, shall be established by the Executive Minister. The intention of the amendment is that it should be established by the High Court of Justice.

Amendment put and declared lost.

CATHAL O'SHANNON: I have another amendment to that section. It is: In line 58 to substitute for the word "two" the word "three." The sub-section as it stands provides that the reviewing body shall consist of not less than two, and the object of the amendment is that these bodies shall consist of not less than three. It is possible, I do not know whether it is probable or not,

that under the sub-section as it stands the revising or reviewing Board of Commissioners shall consist of only two. My object in moving the amendment is to give a rather bigger minimum. It may be the Board shall consist of four or five. The maximum number is not specified but the minimum number is. I would have that minimum number three, because if a Board of two is set up, and a disagreement arises between the two as to say, the length or duration of a particular sentence, I do not know then what would happen. There is no provision in the Bill for the solution of a difficulty of that kind, and there is nothing provided in the Bill for sending such a case to another Board of Commissioners. I think the amendment is quite reasonable, and would allow, in the case of a Board consisting of the minimum number, that at least there should be a majority, so that an actual decision could be arrived at.

Amendment put.

The Dáil divided: Tá, 12; Níl, 37.

Tá.

Tomás de Nógla.
Riobárd O Deaghaidh.
Tomás Mac Eoin.
Seoirse Ghabháin Uí Dhubhthaigh.
Aodh O Cúlacháin.
Seamus Eabhróid.

Liam O Dainhín.
Cathal O Seanáin.
Risteárd Mac Fheorais.
Domhnall O Muirgheasa.
Domhnall O Ceallacháin.
Liam O Briain.

Níl.

Uáitéar Mac Cumhaill.
Liam T. Mac Cosgair.
Gearóid O Suileabháin.
Seán O Maolruaidh.
Micheál O hAonghusa.
Seán O hAodha.
Seamus Breathnach.
Peadar Mac a' Bháird.
Deasmhumhain Mac Gearailt.
Micheal de Duran.
Seán Mac Garaídh.
Risteárd O Maolchatha.
Pilib Mac Cosgair.
Domhnall Mac Cáirtheaigh.
Gearóid Mac Giobúin.
Liam Thrift.
Eoin Mac Néill.
Liam Mac Aonghusa.
Fionán O Loingsigh.

Seamus O Cruadhlaoidh.
Cristóir O Broin.
Caoimhghin O hUigín.
Proinsias Bulfin.
Seamus O Dóláin.
Liam O hAodha.
Proinsias Mag Aonghusa.
Eamon O Dugáin.
Peadar O hAodha.
Seamus O Murchadha.
Liam Mac Sioghaird.
Tomás O Domhnaill.
Earnán de Blaghd.
Uinseann de Faoite.
Seamus de Burca.
Micheál O Dubhghaill.
Pádraig Mag Ualghairg.
Pádraic O Máille.

Amendment declared lost.

Mr. FITZGIBBON: I voted against the amendment of Deputy O'Shannon to insert the word "high" because High Judicial Office has been defined, and there are only 8 or 10 persons who would be qualified to act in such a capacity at present, if Deputy O'Shannon's amendment were carried, and it is doubtful if many of these would be inclined to act under this Bill. I propose to add to the Section the following words, "The Board of Commissioners shall be persons who on or before the date of their appointment held, or have held, judicial office in Saorstát as Judges of the Supreme Court of Judicature in Ireland, Recorders or County Court Judges, Judges of the Supreme Court, High Court or Circuit Court of Saorstát Eireann or of the late Supreme Court of Dáil Eireann."

That will confine the choice of Commissioners to people who have been at some time County Court Judges or High Court Judges. There are some existing County Court Judges who would be well qualified to fill the office. You would also include all those who are included in Deputy O'Shannon's amendment, and you would include in addition to those, people who may be appointed to High Judicial Office in our own Courts set up under the new

Bill which was read a first time yesterday. I appeal to the President to accept this amendment, because "Judicial Office," as Deputy O'Shannon pointed out, is a very vague term and may include any person down to the very worthy person, no doubt, who holds the office of President of the Court of Conscience. There are many small judicial offices that would be quite covered by the term used here, and I would not care to see such people on the Board of Commissioners.

CATHAL O'SHANNON: I beg to second.

Amendment agreed to.

AN CEANN COMHAIRLE: The motion now is: "That the Bill, as amended, be received for final consideration."

Mr. GAVAN DUFFY: The curious process by which the Executive is seeking to commend the Free State to the public continues with such measures as this, and the Public Safety Bill as shining examples. I have been struck by the similarity of the spirit which presided over the last Irish Parliament of 120 years ago with the spirit which presides over this, and I would recommend

[Mr. Gavan Duffy.]

to the President a course of Lecky on the subject in order that he might be duly impressed with the parallel.

"The short session of Parliament," says Mr. Swift MacNeill, "which began on January 21st, and ended on April 15th, 1796, was mainly occupied by an Act of Indemnity for such persons as had in the preceding half-year exceeded their legal powers, and by an Insurrection Act." "I will give to the Dáil two or three of the mildest extracts concerning that period. 'A clause very strenuously opposed by Grattan and Sir Lawrence Parsons actually legalised one of the worst excesses of legal powers in the preservation of the public peace whose previous perpetrations had been condoned under the Indemnity Act. By this clause magistrates in the proclaimed districts were enabled to send men whom they considered disorderly characters, untried to the fleet.' 'Under this comprehensive category,' writes Mr. Lecky, 'were comprised all who were out of doors in the prohibited hours, and who could not give a satisfactory account of their purpose, all who had taken unlawful oaths, all who could not prove that they had lawful means of livelihood.' " That was in 1796. In 1797 similar outrages were indulged in, and we read: "The efforts of the Opposition in the Irish House of Commons to impose some restraint on the military violence reprobated by Sir Ralph Abercrombie were, of course, futile. A new Indemnity Act was carried which sheltered all magistrates and other persons employed to preserve the peace from the consequences of every illegal Act they had committed since the beginning of the year 1797 with the object of suppressing insurrection, preserving peace and securing the safety of the State." The language is very familiar, indeed: "A clause of which Plunket was the proposer for granting compensation to the innocent victims of military violence was opposed and rejected." The next Parliament was occupied with similar business. "The Irish Parliament was prorogued on June 1st, 1799. The proceedings of that assembly were marked by its wonted subserviency to the Government." A Bill was introduced empowering "the Lord Lieutenant as long as the rebellion continued, and notwithstanding the opening of the ordinary Courts of Justice to authorise the punishment by death or

otherwise according to martial law," and so forth, "and the detention of all persons suspected of such crimes and their summary trial by courtmartial. No act done in pursuance of such an order could be questioned, impeded or punished by the courts of common law, and no person duly detained under the powers created by this Act could be released by a writ of Habeas Corpus."

I could quote nearly every chapter of this volume, which would be very much apropos. One other item only to which I desire to draw special attention, and that is the question of presuming good faith as prescribed in this Bill. In March, 1799, another Indemnity Act was carried; it provided that "in all cases in which sheriffs or other officers or persons were brought to trial for acts done in suppressing the rebellion, that a verdict for the plaintiff should be null and void unless the jury distinctly found that it had been done maliciously and not with an intent of suppressing rebellion, preserving public peace, or promoting the safety of the State," and that even where juries did find that the act was malicious, the judge or judges who tried the case should have the power of setting such verdict aside. This Bill does not go quite so far as that, but in practice it does not fall far short of it. I refer to Section 2, Sub-section (2), and I desire to make it clear that I have no objection to an Indemnity Bill as such after such a conflict as we have had. If the Executive did confine this to an Indemnity Bill properly so called, and drawn within reasonable and moderate lines, I should not have opposed it, but I should in any case have opposed the other part of the Bill which should have been presented to us in a separate Act. So far as indemnity is concerned, I do very strongly object to the clause "which provides that any act, matter or thing such as aforesaid done by or under the authority of a person holding office in or employed in the service of the Provisional Government or the Government of Saorstát Eireann shall be deemed to have been done in good faith unless the contrary is proved."

The judge, I take it, will be entitled in any case to say, "There is no adequate proof to allow me to put to the jury whether or not to give a verdict for the plaintiff. There is no adequate proof of want of good faith." How can there be adequate proof. You are asking your

plaintiff to prove a negative. You are asking him to prove a negative in respect of what was in the other man's mind. Nobody could seriously suppose that a plaintiff could prove any such thing. If the Executive stopped short of inserting that provision they would be removing the worst blot on the indemnity part of the Bill. It cannot be necessary to make a plaintiff prove that the defendant was not acting in good faith. If the Executive are anxious that if he did not act in good faith he should be punished, and if it is not necessary why is it inserted?

I turn to another point. As in one of those Statutes of 120 years ago, innocent persons who have suffered are precluded from getting compensation for damage to property, destruction of property or theft of property. I cannot but think the spirit which produces such an Act as this is a spirit utterly foreign to the century we are living in, and far more congenial to that 18th century upon which it is modelled. I do not desire here more than to make a protest against it, because I realise that in the present Dáil it is hopeless for us to do more than that. But I do most emphatically protest against that particular section which I should have protested against before had I been able to be present when the matter was rushed into this Dáil. I ask if any reason can be given?

AN CEANN COMHAIRLE: The allusion is to sub-section (2) of Section 2?

Mr. GAVAN DUFFY: Precisely. What I am saying for the President's benefit, is, so far as one object is concerned, at all events—the indemnity part of the Bill—it seems to me to be very seriously prejudiced by having that particular blot on Section 2, which I submit is unnecessary. I do ask why this Bill should be introduced and rushed through now? I submit that it would have been fairer and more far seeing for an outgoing Executive to leave the work, however necessary, of whitewashing what has been done to a new Executive, elected by the people, instead of taking upon themselves the duty of giving themselves a certificate of good character. I think that such a certificate given by the next Dáil would have been, shall I say, a little more convincing, would have, at least, more moral value than anything that could be done by the present Dáil, which has been a party to the things

which the Executive asks us to indemnify. I regret that this matter has been rushed upon us. I do not desire to add anything further upon the second part of the Bill which, to my mind, is much more objectionable, because the particularly evil matters with which it deals have already been discussed at some length.

The PRESIDENT: The Deputy who has just spoken has puzzled me not a little with regard to the subjects he dealt with and the manner in which he dealt with them. Looking over the Dáil debate of the 27th September I find that the Deputy supported certain Resolutions that were submitted, and which this Bill in a certain sense validates.

Mr. GAVAN DUFFY: May I, on that matter, make a personal explanation. The President, if he reads back, will find that I said I would support the resolutions whole-heartedly on two conditions—one was that men concerned should be treated as prisoners of war, and the second was that the Hague Rules should be applied. These two conditions were embodied in two amendments which I thought would be accepted. When I found that they would not be entertained, I voted against the resolutions, as the President will see by referring to the Division.

The PRESIDENT: I have the volume here. At page 884, Mr. Gavan Duffy:—

“When I came into the Dáil I intended to support the motion. In spite of the eloquence of Labour Deputies, I still hope to be able to support it substantially, because of the fundamental fact that the other side of this dispute have chosen the arbitrament of war. If it is war, we must recognise that fact; also, I want to support the Government, because this measure aims at a military dictatorship. I have been in favour of a military dictatorship from the beginning of the war, because I trust military guidance in a matter of this kind, and I entirely mistrust any kind of political control, because political control is not only a sham, but is often mischievous.”

It is not necessary to read the whole of the speech. It goes the whole length of a page, and there is nothing about the Hague or about prisoners of war in it. That is the support that made those

[The President.]

officers we are indemnifying do their duty. This Indemnity Act gives them that indemnity. The Deputy said there were some parallels between this Act and Acts that were introduced by what has been called the Irish Parliament of 1796, 1797 and 1798. Where is the parallel? I cannot see it. I do not recognise any similarity whatever. If there be a similarity, the Deputy cannot be with what he calls the patriots of that time, having regard to the attitude he took up in the Dáil with regard to these Resolutions. If the Deputy put it that we are in the position of the British Government Ministers in the Irish House of Commons of that time, I deny it point blank. We are not in that position. We are not doing what they were doing for themselves in that Indemnity Bill. We are not doing the same thing as in the Indemnity Bill of that time. The circumstances are wholly dissimilar, and only a mind bordering upon lunacy could possibly suggest anything of the sort. Just think what it means. Here we are, magistrates functioning to all intents and purposes under an Executive responsible to the British House of Commons! A Minister in what is called the Old Irish Parliament was not, as Deputies know, responsible to the House. The Executive was not responsible to the House. It was responsible to the Minister who, in turn, was responsible to the British Executive. That is not the case here. The action we took was to vindicate the Deputy in putting his name to an instrument which we have honoured. In the extraordinary steps we have had to take in vindication of that, we find it necessary to bring in this Indemnity Bill. I must express my amazement at the Deputy drawing such parallels at all, and I do not think that, in his more lucid moments the Deputy himself will see any parallels.

AN CEANN COMHAIRLE: I will allow Deputy Gavan Duffy to make a

personal explanation with regard to the matter quoted from his speech.

Mr. GAVAN DUFFY: There are two matters on which I desire to offer an explanation. The first is in regard to the comparison I made. The comparison I made was between the spirit that animated the promoters of those Indemnity Bills and the spirit that animates the promoters of this Bill. What I said when these military resolutions were introduced is in print, and I stand by every word of it. I said I would support the Government, having introduced, myself, two amendments which I believed would be accepted. The President will find them referred to at the end of that speech. One of these amendments—I ask leave to repeat myself, as the President evidently did not understand me—stipulated that the men tried should be treated as prisoners of war. That amendment I duly proposed when the matter came up. The other amendment proposed that the military should be bound to apply the international rules of war in trying these prisoners. That seemed to me be wholly natural, and I should not have had the least objection to these tribunals being set up if those two essential conditions had been accepted. The President will find, if he looks at the end of that debate, that, as a result of his stating in the course of the debate—I think it was by way of interjection—that these men would not be treated as prisoners of war, I voted in the minority against the Resolutions. I say again I would have supported the Executive if they had accepted the two amendments, which I thought they would have accepted, and when I found, in the course of the debate, that they would not accept them, I voted against the Resolutions.

The PRESIDENT: If you had two votes now you would vote for and against the Bill?

Amendment put.

The Dáil divided: Tá, 36; Níl, 12.

Tá.

Gearóid O Suileabháin.
Liam T. Mac Cosgair.
Uáitáar Mac Cumhaill.
Micheál O hAonghusa.
Seán O hAodha.
Seamus Breathnach.
Pádraig Mag Ualghairg.
Peadar Mac a' Bháird.
Darghal Fíges.
Deasmhumhain Mac Gearailt.
Seán O Ruanaidh.
Micheál de Duram.
Seán Mac Garaidh.
Pilib Mac Cosgair.
Domhnall Mac Cárthaigh.
Gearóid Mac Giobúin.
Liam Thrift.
Liam Mag Aonghusa.

Padraic O Máille.
Fionán O Loingsigh.
Seamus O Cruadhlaich.
Cristóir O Broin.
Caoimhghin O hUigín.
Proinsias Bulfin.
Seamus O Dóláin.
Proinsias Mag Aonghusa.
Eamonn O Dugáin.
Peadar O hAodha.
Seamus O Murchadha.
Liam Mac Sioghaird.
Tomás O Domhnaill.
Earnán de Blaghd.
Uinseann de Faote.
Seamus de Burea.
Micheál O Dubhghaill.
Risteárd O Maolchatha.

Níl.

Tomás de Nógla.
Riobárd O Deaghaidh.
Seoirse Ghabháin Uí Dhubhthaigh.
Tomás Mac Foin.
Liam O Briain.
Aodh O Cúlacháin.

Seamus Eabhróid.
Liam O Daimhín.
Cathal O Seanáin.
Domhnall O Muirghessa.
Risteárd Mac Fheorsis.
Domhnall O Ceallacháin.

Amendment declared carried.

The PRESIDENT: I move that the Bill do now pass.

Mr. JOHNSON: On this motion I want to say that my objection to the passing of this Bill lies in this, and this alone, that it indemnifies too many things. It is not that it indemnifies those people who acted under authorisation of the Dáil, but it indemnifies people against acts which are really criminal, ferocious acts, acts that would bring the culprit into ignominy as well as punishment. It indemnifies these acts, and that is why I oppose the Bill.

The PRESIDENT: If the statement made by Deputy Johnson means that this Bill whitewashes people who should be brought to justice, I say that is untrue. It does not. But there is no use in talking to us about cruelties and other things like that. What we want is evidence. Give us the evidence, and we will deal with them.

Mr. JOHNSON: You refuse to give us an opportunity.

Mr. T. O'DONNELL: People who wish to live under constitutional conditions no matter what king reigns or what law prevails in this country, do not realise

what conditions prevailed when trouble was at its zenith. I know we had no mandate, no authority, nor anything else of that nature for our action in going to Castlebar last summer. We went there, and if we did not have Deputies in this Dáil would not be here now. We did not know whether our action was constitutional, or whether it was illegal at the time, but we had to act on what we thought what the majority rule was in this country, and we thought was constitutional then, although the people who were there did not know that what they did then was legal or not.

Question put: "That the Bill do now pass."

Carried.

SPECIAL RESOLUTION.

The PRESIDENT: I desire to move: "That it is hereby declared that the Bill entitled The Indemnity Bill, 1923, which has this day been passed by this House is necessary for the immediate preservation of the public peace and safety, and that accordingly the provisions of Article 47 of the Constitution of Saorstát Éireann shall not apply to that Bill."

I think it is unnecessary to say anything in support of this motion. Deputies

[The President.]

who have read the particular Article of the Constitution will appreciate the fact that it may be suggested by somebody that during the week following some opportunity might be availed of to defeat the object we had in view in the introduction of this measure, and the passing of it. That is not the intention here. This measure is passed in good faith, carrying

out our duty, and we are taking the precaution of seeing that nothing shall arrest its coming into operation immediately, or at least that we on our part will do all we can to have the Act brought into operation immediately it passes the Oireachtas.

Mr. DUGGAN: I second

Question put.

The Dáil divided: Tá, 36; Níl, 12.

Tá.

Liam T. Mac Cosgair.
Uáitéar Mac Cúinhuill.
Seán O Maolrusaidh.
Micheál O hAonghusa.
Seán O hAodha.
Seamus Breathnach.
Pádraig Mag Ualghairg.
Peadar Mac a' Bháird.
Darghal Fíges.
Deasmhúmhain Mac Gearailt.
Seán O Ruanaidh.
Micheál de Duram.
Seán Mac Garaidh.
Pilib Mac Cosgair.
Domhnall Mac Cárthaigh.
Gearóid Mac Giobúin.
Liam Thrift.
Eoin Mac Néill.

Liam Mag Aonghusa.
Pádraic O Máille.
Fionán O Loingsigh.
Seamus O Cruadhlaoidh.
Cristóir O Broin.
Caoimhghin O hUigín.
Proinsias Bulfin.
Seamus O Dólaín.
Proinsias Mag Aonghusa.
Eamon O Dugáin.
Peadar O hAodha.
Seamus O Murchadha.
Liam Mac Sioghaird.
Tomás O Doinnhaill.
Earnán de Blaghd.
Uinseann de Faolte.
Seamus de Burca.
Micheál O Dubhghaill.

Níl.

Tomás de Nóglá.
Riobárd O Daghaidh.
Seoirse Ghabháin Uí Dhubhthaigh.
Tomás Mac Eoin.
Liam O Briain.
Aodh O Cúlacháin.

Seamus Eabhróid.
Liam O Daimhín.
Cathal O Seanáin.
Domhnall O Muirgheasa.
Risteárd Mac Fheorais.
Domhnall O Ceallacháin.

Motion declared carried.

The PRESIDENT: I ask for permission to introduce a Bill which occasions this late sitting. The purpose of this would be to pass a resolution similar to that which has been added to the Indemnity Bill, that is that Clause 47 of the Constitution should not hold up the Bill. If permission be not given I would move to adjourn for an hour. If permission be given I would still move to adjourn for an hour, and it would get over the first phase of the business we have to do.

AN CEANN COMHAIRLE: Have you got the text circulated? It is most important.

PUBLIC SAFETY (No. 2) BILL.

The PRESIDENT: I ask for leave to introduce a Bill entitled Public Safety (Emergency Powers) No. 2 Bill, 1923.

Question put and agreed to.

SITTING TEMPORARILY SUSPENDED.

The PRESIDENT: I move that the Dáil do now adjourn until 9.30 p.m. if that meets the convenience of Deputies

Mr. JOHNSON: I would like to know if we can have some assurance that the Judiciary Bill, the Licensing Bill, the Ministries Bill, the Public Health Bill, the Local Government Bill, and Patents, Trade Marks and Copyright Bill—that all these will not be brought in and rushed through.

The PRESIDENT: That will not happen. I only give notice of this one Bill to-night and I regret the occasion has arisen for breaking the agreement we came to about non-contentious measures. But we did not anticipate what has happened, and could not have anticipated it,

and if it were not for the peculiar circumstances of the times I, would not impose upon the Dáil this new measure, but in view of what happened it cannot be looked upon as an imposition or as if I were trying to run something through.

Mr. DARRELL FIGGIS: The point I want to bring before the President is this, as to the necessity imposed upon us for getting through this Bill. The necessity is not apparent, because some of us—I, at least myself—have endeavoured to get the arguments that caused this in the evening papers and they are not available, and inasmuch as we are now on a rather important fundamental constitutional point I think the arguments that brought about this necessity in the courts to-day might at least be available for Deputies in order that they may have the position before them in deciding constitutional procedure of this kind.

The PRESIDENT: I have not got it; I did not get it myself. I simply got a verbal intimation from our legal officials that this course is necessary.

Mr. DARRELL FIGGIS: I appreciate that, but it is obvious to the President we are doing something here to-night that will form some kind of constitutional precedent. We should have the facts before us. When I refer to the facts I do not mean merely the decision the court came to, but the basis of their deliberations by the judges and all the documents that brought that about, and that may be of importance to future proceedings of future Dála under Article 47 of the Constitution.

The PRESIDENT: I will undertake to give all the information at my disposal, and that I may be able to get in the meantime.

Mr. JOHNSON: I only hope the Minister will not forget in the future when he is criticising procedure in Russia that he is doing the very same thing in regard to his method of legislation as is condemned when done by the Soviet Government.

Dáil adjourned accordingly until 9.30 p.m.

PUBLIC SAFETY (No. 2) BILL, 1923.

The Dáil resumed at 9.30.

AN CEANN COMHAIRLE: What does the President propose to do?

The PRESIDENT: I wish to move the Second Reading of this Bill, The Public Safety (No. 2) Bill, 1923. I gave notice already this evening that it would be necessary to suspend the Standing Orders, and I want to move now the suspension of the Standing Orders and take the Bill through all its stages.

Mr. DARRELL FIGGIS: There is a point that I wish to raise. I may say I am not placing any obstacle in the way of this Bill. I recognise the question of urgency, and that the Bill that was passed here yesterday must be given effect to; it was the intention it should. However I am not in entire agreement. The only matter that I am raising is a matter of importance for the future, merely a question of procedure. Whatever we decide here will be taken as a precedent for the future. Under Article 47, as I read and construe that article, I believe that a Resolution of this Dáil would be sufficient to meet the case. It would certainly be a much less cumbersome procedure than taking a Bill already passed in this Dáil and making it a schedule to some new Bill that is taken a day afterwards.

AN CEANN COMHAIRLE: Would not the point that is being made by Deputy Figgis arise after the motion for Second Reading is being taken rather than now on a motion for the suspension of the Standing Orders?

Mr. DARRELL FIGGIS: You think it would arise better on the Second Reading?

AN CEANN COMHAIRLE: I think so.

Mr. DARRELL FIGGIS: I will then leave it to the Second Reading.

Motion to suspend the Standing Orders put and agreed.

The PRESIDENT: I move the Second Reading of the Bill. We endeavoured to get the particulars that were asked for by Deputy Figgis, but it appears that the reports in connection with the case are being transcribed, and it would take maybe a half an hour or three quarters of an hour until we are in a position to say exactly whether it will be possible to get them within an hour or afterwards. I have asked the Attorney-General to attend

[The President.]

this evening. If it was the wish of the Dáil to hear a short explanation from him he will give them that explanation, although we have not had up to this any outsider, that is, a person who is not elected a member of this Dáil, addressing it. But if it were desired, in view of the special circumstances of the case, that a statement, dealing with the proceedings that took place in the court to-day, should be made by him I would ask the Attorney-General to address the Dáil. I think that is scarcely necessary. The decisions are there. The reasons why these two decisions were given or the particular reason which actuated the decision that was given, would scarcely affect the case, because we are presented with a certain fact, the fact being that an Act that was passed through both Houses of the Oireachtas, that has received the Royal Assent is held for seven days by reason of Article 47 of the Constitution. Had that been anticipated I think there is not the faintest doubt whatever but that both Houses of the Oireachtas would have passed the necessary resolution. As to the suggestion that was made by Deputy Figgis, earlier in the evening, regarding this Article, that is that it might be possible for us now to pass this resolution, though I subscribe to that as a solution of the difficulty, I am not satisfied that that solution would be accepted and we might be faced with a network of difficulties and complexities just as we had contemplated adjourning and dissolving. On that account it is unwise that we should take any step which is not a sort of cast-iron security that the measure that we have considered here for a very considerable time, and that has been a subject of very serious consideration in the Seanad should run the risk of being held up for any period by reason of the reactions which the holding up of the Bill might bring about. In moving the Second Reading it is only necessary to state that it was the intention of this Dáil and the intention of the Seanad that this Act should become operative immediately on its passage through both Houses and on the Governor-General appending his signature to it. I, therefore, formally move the Second Reading.

Mr. O'HIGGINS: I beg to second.

Question: "That the Bill be read a Second Time," put.

Mr. DARRELL FIGGIS: I am not raising any objection or difficulty to this. I am entirely in agreement with the President so far as the necessity for giving effect to what was clearly the intention of the Oireachtas, is concerned. My point may seem a little unnecessary and pedantic, but I do think it is right that at this early stage of acting on the Constitution it is very desirable that we should proceed with care in order that the matters we now do might not form unhappy precedents for the future. I cannot but think it is not altogether the best of possible precedents to pass an Act, say, on Wednesday of one week, and because a certain eventuality occurs that that Act, on the Thursday of the same week, should be made a Schedule to another Act. Article 47 of the Constitution is, I think, quite clear. Article 47 does say that these provisions, the provisions by which two-fifths of either House may claim a referendum, but must claim it within seven days, and that therefore a Bill is not presumed to be of full effect in law and to have actual currency until those seven days have expired, shall not apply or be of effect in the case of Bills. The Constitution reads: "This provision shall not apply to money Bills or to such Bills as may be claimed to be needed for the preservation of the public peace, health or safety." I have a very clear and actual memory of the scene in which these words were drafted. It does not say that such a resolution making these provisions null and void in respect of Bills of this sort must be passed with the Bill and accompanying the Bill; it merely says that such a resolution must be passed by both Houses. It might be passed the day after. I believe the construction of Article 47 is that it may be passed any time within the seven days, and I think it would be a more desirable procedure to adopt. I know the arguments that will be raised. No doubt, this argument would be put forward that a resolution of this kind passed the following day was *ex post facto*. It is still within Article 47 but it is neither more nor less *ex post facto* than the procedure to be now adopted. If the argument that the procedure by resolution—the simple direct procedure—is not going to be accepted by the Courts—and I take that by anticipation to be the argument for the procedure now being defined—

then the same would apply towards making a No. 2 Bill with No. 1 Bill as a schedule. I am perfectly well aware other arguments could be put forward, and I imagine they will be in due course of time, but I prefer they would not be interlarded with my arguments at the present time.

Professor MAGENNIS: They would spoil your arguments.

Mr. DARRELL FIGGIS: I suggest Article 47 is perfectly clear. A certain type of Bill shall not be held up for seven days. That type of Bill is the kind of Bill that is necessary for the preservation of public safety, peace and good order. If the Dáil at any time decides that a certain Bill which is passed five minutes or 24 hours before is of that kind, then, if it passes a resolution to that effect, then this provision, if now proved to be an impediment, shall not apply. I urge that on the President for a very practical reason. To-day it was necessary to suspend Standing Orders. If a resolution of this kind could have been adopted I take it Standing Orders need not have been suspended, and it is better not to suspend them if it can be avoided. Sometime in the future the same emergency might arise that has now arisen, and it might not be possible to suspend Standing Orders. It might be possible to proceed by way of resolution. If that is sufficient now it will be sufficient then, and I do urge a resolution should be passed and presented to the Court, and that it would effect the purpose in exactly the same way and with exactly the same authority, being within the meaning of Article 47, as making a No. 2 Bill of what has already been a No. 1 Bill.

Professor MAGENNIS: I am loath to occupy time as time is precious, but Deputy Figgis is really spinning cobwebs for his own delight. Nothing can be clearer than Article 47. "A Bill passed, or deemed to have been passed, may be suspended" and so on—"These provisions shall not apply to such Bills as shall be declared by both Houses to be necessary for the immediate preservation of the public peace, health or safety." His argument, therefore, that what was held against the validity of the Public Safety Act, Number 1, would apply equally to this, falls to the ground be

cause this second Bill is accompanied by the necessary declaration. That is the essential difference. This Bill is accompanied by the declaration or will be accompanied by the declaration of both Houses that it is necessary for the immediate preservation of the public peace. The contention of Deputy Figgis, that it will suffice, after the Bill has been passed, to make an *ex post facto* declaration that it is of that nature, merely shows that Deputy Figgis is not acquainted with the ways of the Law Courts. The Judge might very well, without going to any great length to discover or invent difficulties, hold that the meaning of these words is that the declaration is to accompany, and be an integral part of the legislation. What the President proposes to do puts it out of the power of any logic chopping gentleman, on or off the Bench, to utilise that argument so that whether this is novel procedure or not is not a fatal objection, because the situation is absolutely novel. I do not like to comment upon it further than that, but it is an effort of the old regime to interfere with the coming into operation of the new regime. I will not say anything more than merely to put it in very mild terms. What we are doing to-night may be unique in the history of legislation, but it is the proper way to meet a difficulty which is in itself unique in its creation.

The PRESIDENT: It is intended also to pass the necessary resolution with regard to this as soon as this Bill passes, if God spares us to pass it.

Question put, and agreed to.

- AN CEANN COMHAIRLE: In accordance with the resolution suspending Standing Orders the Dáil will now go into Committee.

DAIL IN COMMITTEE.

Bill passed through Committee without amendment and ordered to be reported.

DAIL RESUMED.

Bill reported without amendment.

The PRESIDENT: I move that the Bill be received for final consideration.

Agreed.

The PRESIDENT: I think we can take out now the words in the title "pending the coming into operation of the Public Safety (Emergency Powers) Act, 1923." The title will then read "An Act to make provision for the immediate preservation of the Public Safety."

MINISTER for LOCAL GOVERNMENT (Mr. Blythe): I beg to move that all words in the title after the first word "safety" be deleted, so that the title will read "An Act to make provision for the immediate preservation of the Public Safety."

Professor MAGENNIS: Would it not be well to make it an "An Act to make provision for the immediate preservation of the Public Safety and for the coming into operation of the Public Safety Act"? That really describes it.

Amendment put, and agreed to.

The PRESIDENT: I move: "That the Bill be now passed."

Question put, and agreed to.

Bill ordered to be sent to Seanad.

The PRESIDENT: I beg to move the following resolution:—"That it is hereby declared that the Bill entitled "The Public Safety (Emergency Powers) (No. 2) Bill, 1923," which has this day been passed by this House, is necessary for the immediate preservation of the public peace and safety, and that, accordingly, the provisions of Article 47 of the Constitution of Saorstát Eireann shall not apply to that Bill."

Mr. O'HIGGINS: I beg to second.

AN CEANN COMHAIRLE: Is it agreed to suspend Standing Orders to take his motion without notice.

Agreed.

Motion put, and agreed to.

The PRESIDENT: I move the adjournment of the Dáil until 12 o'clock to-morrow.

Agreed.

The Dáil adjourned at 10 o'clock.

DAIL EIREANN.

DE HAoine, 3ADH LUGHNASA, 1923.

(Friday, 3rd August, 1923.)

Cromadh ar obair an lae ar a 12 noon. Bhí An Ceann Comhairle, Micheál O hAodha, sa Chathaoir.

CEISTEANNA—QUESTIONS.

[ORAL ANSWERS.]

CLAIM FOR MONEY.

SEAN O LAIDHIN asked the Minister for Finance whether he is aware that Michael Pigott, Harbour Road, Kilbeggan, Westmeath, has lodged a claim for £10 15s. 6d. in respect of money taken from him by armed men on January 19th, 1923; and further, whether the Minister is aware that the money mentioned was the property of the Midland Great Western Railway Company, who are now pressing for payment of same, and as Pigott is in poor circumstances will the Minister expedite his claim.

The PRESIDENT (Minister for Finance): There is no record in my Department of the receipt of a claim for compensation from Mr. Michael Pigott. In connection with a case of the kind mentioned, perhaps I may take the opportunity to remind the Deputy that the provisions of the Damage to Property (Compensation) Act, 1923, expressly preclude any award of compensation in respect of the loss of coins, Bank or Government notes, or currency of any country, other than those taken away from the premises of a bank.

MOTOR CAR COMMANDEERED.

SEAN O LAIDHIN asked the Minister for Finance whether he is aware that a motor car, the property of Mr. Joseph Cuffe, Tyrrellspass, Westmeath, was commandeered by British Forces in December, 1920, and returned useless in October, 1921, and, further, whether he is aware that Mr. Wallace, Solicitor, Mullingar, lodged a claim for £500, in

respect of same, and whether the Minister can state when the claim is likely to be dealt with, as Mr. Cuffe is a poor man, with a large family, and this car was his only means of livelihood, and will the Minister see that payment is expedited.

The PRESIDENT: No claim on behalf of Mr. Joseph Cuffe in respect of the loss referred to has been lodged with me, but I have ascertained that the case is awaiting investigation by the Compensation (Ireland) Commission. Until an award by the Commission has been notified to me no question of payment will, of course, arise.

CATTLE SEIZURES.

TOMAS O CONAILL asked the Minister for Home Affairs if he can state whether, in cases in which cattle have been seized by military, any opportunity will be afforded to the owners to make representations, with a view to showing that the trespass was accidental, and that such persons were not engaged in any unlawful conspiracy to obtain or hold illegal possession of such lands, and whether, in the event of such representations being made and established as well founded, the value of the cattle seized will be refunded.

MINISTER for HOME AFFAIRS (Mr. K. O'Higgins): The answer is in the affirmative.

Mr. O'CONNELL: Does that apply to seizures that have been made during the last six months?

Mr. O'HIGGINS: Yes.

TOMAS MAC ARTUIR asked the Minister for Home Affairs whether he is aware that cattle, the property of Mr. Bernard M'Brien, Aughalough, were seized from the lands of Mrs. M'Neill, Augharan, Co. Leitrim; also whether he is aware that cattle were taken from the lands of Mr. A. Nicholl, Rossan, Carrigallen, and whether this stock was sold, and if so what amount was realised on sale of same. To ask further, whether he will pay the owners of the lands for trespass and hand over the balance to the owners of the cattle.

Mr. O'HIGGINS: I am aware that stock found trespassing were seized by military on the lands of Mrs. McNeill.

[Mr. O'Higgins.]

at Dohern, Co. Leitrim, on 17th May last, and on the lands of Mr. Archibald Nicholl, Kilgrove, on 15th idem. In the first-mentioned case the net proceeds of the sale of the stock amounted to £34 0s. 6d., and in the second case to £58 5s. 5d.

The proceeds of the sales will be applied in accordance with the provisions of Sub-section 4 of Section 6 of the Public Safety (Emergency Powers) Act.

CORPORATION EMPLOYEES PENSION.

LIAM O BRIAIN asked the Minister for Local Government whether Terence Myles, a late employee of the Dublin Corporation Cleansing Department, aged 60 years, having 30 years' continuous service, retired more than a year ago, having been recommended for a pension of £2 11s. 6d., being two-thirds of his average wages for the preceding three years; whether this pension has been sanctioned, and if not, will the Minister state the reason for the very long delay in deciding this case.

MINISTER for LOCAL GOVERNMENT (Mr. E. Blythe): The facts are as stated in the first part of the question. This is one of some sixty cases where sanctions have not been given. In awarding pensions to their employees the Corporation have adopted a policy to which there are two main objections: (1) that irrespective of length of service, pensions have been granted on the basis of two-thirds of the existing emoluments; and (2) that emoluments of a temporary nature have been included and deemed as substantive for purposes of calculation of pensions. This is an indefensible method of procedure. In April last a fully explanatory letter was addressed to the Corporation indicating the general principles warranting the granting of and the amounts of pensions, and the Corporations were invited to reconsider the cases.

To the fact that this course has not been adopted any delay which has occurred is referable. It is understood, however, that effect has been given to my authorisation that pending the determination of the cases the employees concerned might be paid temporarily according to their years of service. Presumably under this arrangement Mr. Myles is being paid

some twenty-nine sixtieths of such amounts at a rate fixed on basic wages, together with appropriate allowance in respect of any increases which were founded on the enhanced cost of living.

GRIEVANCES OF MENTAL HOSPITAL STAFFS.

RIOBARD O DEAGHAIDH asked the Minister for Local Government whether the attention of his department has been called to the many grievances under which Mental Hospital staffs suffer, owing to the various defects existing in the Asylum Officers Superannuation Act, 1909, and whether the Minister proposes to introduce an amending Bill, with a view to the removal of these grievances, and if so, whether any proposals embodied in it will be made retrospective.

Mr. BLYTHE: The question of amending the Asylums Officers Superannuation Act, 1909, has been under consideration, and it was intended to introduce an amending Bill, but it was not found possible to do so this session owing to the pressure of other business. No decision has yet been reached with regard to giving retrospective effect to any amendment.

SOLDIERS' VOTES.

SEAN O LAIDHIN asked the Minister for Local Government whether soldiers serving outside their own Electoral areas can have their votes transferred to the area where they are serving, to allow them to cast their votes in favour of their candidates in the Electoral area where they are stationed.

Mr. BLYTHE: Provision is made for the names of electors who are members of the Defence Forces and who desire to vote by post, to be entered on the Postal Voters List, *vide* Section 21 and 61 (4) (a) of the Electoral Act, 1923. An order under Section 61 entitled the "Registration of Electors (Defence Force) Order, 1923," was issued on the 20th April last, and the requisite claim forms were distributed by the Ministry of Defence. All members of the Force who returned these forms claiming to vote by post have had their names entered on the Postal Voters List and ballot papers will be dispatched to them, not later than the day after

nomination day, but no person can vote in respect of a constituency other than that in which he is registered.

DUBLIN SOLDIERS KILLED IN KERRY.

LIAM O BRIAIN asked the Minister for Defence whether he is aware that the relatives of many Dublin soldiers killed on active service and buried in Co. Kerry, have made several applications to have the bodies brought to Dublin for burial, and whether, in view of the very strong desire of these bereaved relatives, the Minister is prepared to recommend that the requests be granted.

MINISTER for DEFENCE (General Mulcahy): Yes. The general matter is under sympathetic consideration, but I cannot say when a decision will be taken.

Mr. O'BRIEN: Could the Minister promise to give an early decision on the subject?

General MULCAHY: I cannot say at the moment whether a very early decision can be given, but the matter is under sympathetic consideration.

REGISTERED PARCELS FOR PRISONERS.

DOMHNALL O MUIRGHEASA asked the Minister for Defence whether he is aware that four registered parcels which were sent to Patrick Kinane, Finaly, Upperchurch, Co. Tipperary, during his imprisonment in Limerick, were not delivered to him; whether he is aware that the prisoner's father, who sent the parcels, has received from the postal authorities receipts showing that the first parcel was delivered at the prison gate to Sergeant J. O'Neill, on the 22nd December, 1922; the second, on the 27th January, 1923, to Edward Ryan (no rank given); the third, on the 6th February, 1923, to J. Lacey (no rank given), and the fourth, on the 26th February, 1923, to R. Falstaff (no rank given).

General MULCAHY: Enquiries are being made, but they have not yet been completed.

ACCOUNTS FOR MOTOR HIRING.

TOMAS MAC ARTUIR asked the Minister for Defence whether he is aware

that accounts, in respect of the hireage of motor vehicles by military stationed in Co. Leitrim, are outstanding to the following:—Messrs. Francis Mitchell, Mohill; M. Bohan, Mohill; P. M'Loughlin, Carrick-on-Shannon; M. Geelan, Mohill; M. Geoghan, Ballinamore; F. Maguire, Ballinamore; T. Gill, Carrick-on-Shannon; —. Tiernan, Carrigallen; J. Higgins, Drumshambo; —. McPartland, Drumshambo; P. Kiernan, Newtowngore Village; J. McGarry, Mohill; Mrs. Flynn, Carrick-on-Shannon; Mrs. Finn, Carrick-on-Shannon; and Mrs. Kelly, Hotel, Mohill; and to ask that payment of these accounts be expedited.

General MULCAHY: The accounts of Messrs. Mitchell, Bohan, Geelan, Gill and Higgins have recently been paid. Consideration of the other accounts will be expedited as much as possible.

POSTAL COMMISSION REPORT.

TOMAS O CONAILL asked the Postmaster-General, in view of his recent statement to the effect that the Douglas Report has been under consideration for several months, whether he is yet in a position to say if a decision has been taken with regard to this report, and further, if he is aware that the very great delay in announcing the Government's intention regarding this report has caused, and is causing, grave dissatisfaction among postal servants.

POSTMASTER-GENERAL (Mr. J. J. Walsh) I regret that I am not in a position to make an announcement on the Douglas Postal Commission Report, certain aspects of which have not yet been decided by the Executive Council.

Mr. O'CONNELL: I desire to ask the Minister if he has received a resolution from the Postal Workers' Union calling attention to the very grave dissatisfaction that exists in the service owing to the great delay in dealing with this report which is now over seven months in the hands of the Minister?

Mr. WALSH: Yes, I have received a number of resolutions, and I think the supplementary questions in connection with this Commission should in future be addressed to the Minister for Finance rather than to me.

Mr. O'CONNELL: Am I to conclude from that answer that this matter is no longer in the Postmaster-General's Department, but in that of the Minister for Finance?

Mr. WALSH: That is correct.

Mr. GAVAN DUFFY: Seeing that the Postmaster-General is not a member of the Executive Council, is this not a matter for himself rather than for the Executive Council?

Mr. WALSH: I have no further answer to give.

REGISTER OF VOTERS.

Mr. DARRELL FIGGIS: I beg to ask the Minister for Local Government the following question, of which I have given him private notice: If, having regard to the fact that the complete Register of Voters is not yet available in any constituency, although large parts of the Register are available, he will for the general convenience in view of the General Election at so early a date, arrange for the Register to be made available in parts as ready?

Mr. BLYTHE: There are already constituencies in which the complete register is ready and available for publication. In any such case there is no objection to the supply of the register, on payment of the prescribed fee, to any person who wants it. If the sale of portion of an incomplete register were permitted prior to publication, it would not be possible to guarantee that there would be no discrimination as the supply to individuals.

Mr. DARRELL FIGGIS: I would like to ask the Minister if it is to be announced publicly that this procedure is to be adopted, where could the discrimination or the lack of justice occur?

Mr. BLYTHE: It would be impossible, for instance, to be sure that the Registration Officer would give as readily a part that had just come in to one person as to another. There would be no means of knowing, from the point of the public or the people outside of official circles, that any particular part was ready or in, or that a part was really ready or not. It would be impossible for a person to come in, knowing that a particular part was ready and to demand it, and on the

other hand it would be easy for the Registration Officer to say that one part was not ready when asked for it by one person, and that it was ready when asked for it by another. The matter really introduces a certain element of informality and laxity which would make it impossible to be quite certain that there was no discrimination. Nothing wrong might occur, but, on the other hand, if it did occur, there would be serious ground for complaint on the part of any person discriminated against.

Mr. DARRELL FIGGIS: Following upon the Minister's first answer, I would like to ask whether discrimination has not already in fact occurred as between those Constituencies where the Register is available in whole, and those Constituencies where the Register is not available in whole? I would like further to ask him if he can state when all the Registers will be available and ready in full.

Mr. BLYTHE: It is intended to fix the date for the publication of the Register for the 8th of August.

Mr. DARRELL FIGGIS: Would that publication for the 8th of August mean for all the Constituencies alike, whether the Register was now available or not?

Mr. BLYTHE: Yes, that is the date for publication, the 8th August.

REPLACEMENT OF RAILWAY ROLLING STOCK.

Mr. O'BRIEN: I beg to ask the following question of which I have given private notice, whether the Minister for Industry and Commerce is aware that the Great Southern and Western Railway Company have under consideration the importation of a large supply of rolling stock, which, if constructed in the Company's own workshops would give much needed employment in Dublin, and whether the Minister will make immediate representations to the Railway Company with a view to having this work done in the Inchicore Works.

Mr. BLYTHE (for the Minister for Industry and Commerce): The Ministry understands that the Great Southern and Western Railway Company has under consideration the re-building of

some passenger coaches in replacement of those recently destroyed, and with a view to the comparison of the cost of re-building the vehicles in their works at Inchicore, asked for tenders from outside firms. No decision has yet been arrived at as to the acceptance of any such tender, and the Ministry is in correspondence with the Company in the matter.

[WRITTEN ANSWERS.]

QUESTION OF A PRISONER'S RELEASE.

SEAN O LAIDHIN asked the Minister for Defence whether it is his intention to release Edward Merriman, Caddagh, Mullingar, at present in Dundalk Prison, and whether Merriman has signed the usual form of undertaking, and whether he was to be released six months ago on signing same, and as the prisoner is only 17 years of age, will the Minister expedite his release.

General MULCAHY: As stated in reply to the Deputy's question on the 22nd March last, Merriman has signed the usual form of undertaking. He was tried by Military Court and recommended for internment. In view of the circumstances now prevailing and having regard to his age, it has now been decided to release him.

ACCOUNT FOR MOTOR HIRE AND REPAIRS.

SEAN O LAIDHIN asked the Minister for Defence whether he is aware that an account, amounting to £20 10s. for motor hire, repairs and supplies, from May 10th to November 9th, 1922, is due from the O.C., Custume Barracks, Athlone, to Messrs. Hennessy, Motor Garage, Kilbeggan; and to ask will the Minister expedite payment.

SEAN O LAIDHIN also asked the Minister for Defence whether he is aware that there is owing to Messrs. Hennessy and Sons, Motor Garage, Kilbeggan, Westmeath, the sum of £11 15s. 6d., for car hire, supplies and damage to cover and tube in August and September, 1922, from the O.C., Tullamore Barracks; and whether Mr. Hennessy has made several applications for payment without result, and whether the Minister will have this claim adjusted.

General MULCAHY: Messrs. Hennessy's accounts are under local investigation. The necessary inquiries will be expedited.

LABOURERS' ARRESTS IN WESTMEATH.

SEAN O LAIDHIN asked the Minister for Defence whether he is aware that Joseph Fagan, James Fagan, Christopher Curran, all of Streete, Co. Westmeath, were arrested by Military of July 14th, 1923, no charge being preferred against them, and who are at present lodged in Mountjoy Prison, and as above three have wives and families depending on them will the Minister have them released.

SEAN O LAIDHIN also asked the Minister for Defence whether he is aware that James Fagan, of Colamber Cottage, Lismacaffrey, Westmeath, was arrested by Military on July 7th, 1923, for alleged cattle-driving, and whether the Minister is aware that Fagan is a working man, with a wife and six children, who are at present destitute owing to his arrest, and whether the Minister will have the prisoner released immediately.

General MULCAHY: These men were arrested and interned on the ground of cattle-driving on and interference with the Kilmore Estate. The cases against them are being reconsidered.

POSITION OF UNECONOMIC HOLDERS.

SEAN O LAIDHIN asked the Minister for Agriculture whether he will state his intention with regard to the lands of New Forest, Fore, Tyrrellspass, Cloncullen, Cloonagh, and Ballinagore, and whether a large number of small holders and uneconomic tenants live in these localities; and, further, to ask whether it is the Minister's intention to accommodate these people by splitting up these lands.

MINISTER for AGRICULTURE

(Mr. P. Hogan): Until the necessary particulars, as prescribed in the provisions of the Land Bill shall have been furnished, no official information as to the lands mentioned is available, and while it is the intention of the Government that untenanted land shall, wherever neces-

[Minister for Agriculture.]
sary, be acquired for the purpose of enlarging uneconomic holdings, I cannot now state whether this intention can be carried out in any particular area.

VOTERS LISTS (PRINTING CONTRACT).

Mr. JOHNSON: I beg to give notice to raise on the adjournment the question as to the procedure of the Stationery Office in removing copies of the Register from one centre to another, and in breaking all the recognised rules relating to printing contracts.

BROADCASTING AND WIRELESS.

Mr. SEAN McGARRY: I beg to give notice to raise on the motion for adjournment the question of which I gave notice yesterday relating to broadcasting, and to the issue of licences as to wireless telegraphy.

Mr. JOHNSON: Whose fault was it that this question was not raised yesterday?

AN CEANN COMHAIRLE: I am not prepared to say whose fault it was.

Mr. McGARRY: I understood I could not raise the question last evening when the President moved the motion for adjournment of the House.

AN CEANN COMHAIRLE: We have not yet come to a decision as to whether when notice is given that a matter will be raised on the adjournment on one day that it can be carried over to the next day, if circumstances occur which make it impossible to take it on the day for which the notice is given. This is a very exceptional day, and it might be possible to raise the two matters on the adjournment if Deputies agree to that. Deputy McGarry's notice could be taken first and Deputy Johnson's afterwards.

VALUATION (POSTPONEMENT OF REVISION) BILL, 1923.

FROM THE SEANAD.

Motion made and question proposed:
"That this Bill be now read a Second Time."

The PRESIDENT: I move that the Bill be read a Second Time. The necessity which compels us to introduce this

Bill is the Damage to Property Act and the Compensation Commission, both of which have drawn entirely upon the resources of the Valuation Offices, and on the officials of that office, and have interfered with the ordinary work which that office normally performs. It will be quite understood that with the very large number of claims to be considered by the Compensation Commission, and with the immense amount of work that is inseparable from the Damage to Property Act, the entire resources of the machinery of the State will be called upon in order to discharge the duties that would properly fall upon the Government in connection with these two institutions. The Compensation Commission deals with pre-truce cases, and the Damage to Property Act with post-truce cases. In normal circumstances quite a number of valuations are listed for revision each year. That revision work cannot be undertaken if we are to deal with the Compensation Commission and with the Damage to Property Act properly, so that it will be necessary to suspend that revision, and this Act is for the purpose of suspending it. I accordingly move the Second Reading of this Bill.

Mr. HIGGINS: I second the motion.

Question put: "That a Bill, entitled An Act to Authorise the Postponement for One Year of the Making of the Annual Revision of Valuation of Lands, Tenements, and Hereditaments be read a Second Time."

Agreed.

The PRESIDENT: I move the suspension of the Standing Orders to enable us to take the Committee Stage of this Bill.

AN CEANN COMHAIRLE: If the President can get general agreement, he need not move the suspension of the Standing Orders.

The PRESIDENT: I ask the leave of the Dáil to enable the further stages of the Bill to be taken.

Agreed.

Bill put through its further stages and passed.

AN CEANN COMHAIRLE: A message will be sent to the Seanad acquaint-

ing them that the Bill has been passed by the Dáil without amendment.

THE PREVENTION OF ELECTORAL ABUSES BILL, 1923.

FROM THE SEANAD.

AN CEANN COMHAIRLE: The Dáil will go into Committee to consider the Seanad amendments to this Bill.

[DAIL IN COMMITTEE.]

MINISTER for LOCAL GOVERNMENT (Mr. Blythe): The first amendment is a purely verbal one. There are Boroughs in the country which are not County Boroughs. The Bill was made to read "County or other Boroughs." I move that the Dáil agree with the Seanad in the amendment—Section 56, line 27. To add after the word "county," at the end of the line, the words "or other."

Agreed.

Mr. BLYTHE: The next amendment includes in the definition of local authorities not only committees of the directly elected local authorities but committees wholly or partly appointed by them. A similar amendment was put up by the same Senator in the case of the Electoral Law Bill, and was accepted. This simply brings the wording of the definition of the Electoral Abuses Bill into line with the wording of the definition that was inserted in the Electoral Law Act in the Seanad. I move that we agree with the Seanad in the amendment—Section 56, line 33. To insert after the words "Committee of" the words "or wholly or partly appointed by."

Amendment agreed to.

Mr. BLYTHE: Amendment 3 is an amendment which was carried against me in the Seanad, but I would recommend the Dáil to accept it. As the Bill went up to the Seanad, there was no maximum limit of expenses. The Seanad seemed to be almost unanimously in favour of inserting a limit, and it carried this particular amendment. It fixes the limit a great deal higher than the limit in the Act of 1920. That Act fixed the limit at 2d. per Elector on the Register, so that in the case of a 3-member consti-

tuency, where there will be roughly 30,000 voters on the register, the scale that was adopted in the Seanad would give a limit of about £500 in a borough constituency per individual, and £625 in a county constituency. In the case of an eight-member constituency there would be £13,033, and in the case of a borough £1,666. In the case of a county constituency there is practically no limit, so far as the larger constituencies are concerned. It is a limit that may be gone up to in the smaller constituencies. In view, as I say, of the practical unanimity of the Seanad in favour of inserting this amendment and of the necessity of passing the Bill on account of the business there is and the shortness of time, and in view of the fact that the limit is fixed so very high in a great many constituencies, it cannot operate as an effective limit at all, I would recommend the Dáil to accept it. The amendment is:

Delete Part III. of the First Schedule and substitute the following:—

PART III.—MAXIMUM SCALE.

The expenses mentioned in Parts I. and II. of this Schedule, other than personal expenses and the fee, if any, paid to the election agent (not exceeding in the case of a county election seventy-five pounds, and of a borough election fifty pounds, without reckoning for the purposes of that limit any part of the fee which may have been included in the expenses first above mentioned) shall not exceed an amount equal—

in the case of a county election to fivepence for each elector on the register;

in the case of an election for a borough to fourpence for each elector on the register.

Where there are two or more joint candidates at an election, the maximum amount of expenses in Parts I., II., and III. of this Schedule shall, for each of the joint candidates, be the amount produced by multiplying a single candidate's maximum by one-and-a-half and dividing the result by the number of joint candidates.

Mr. JOHNSON: If there is to be a limit, I would much prefer a lower limit. I would like to ask what limit there will be in the case of a University constituency, or will Deputy Professor Ma-

[Mr. Johnson.]

Magennis be able to spend any amount of money he likes.

Professor MAGENNIS: I think, Sir, as this is a matter that concerns elections to the Dáil, and is altogether alien in that regard, at any rate to the Seanad, that this is the House that should determine the limit, because it is a question of limiting expenditure to curb corruption, to preclude as far as possible opportunities for bribery, let us say, under the cover of election expenses. As the Minister has pointed out, this is in practice setting up no limit at all. If we had time, I am quite sure the Dáil would not accept this amendment but would send it back again.

Mr. JOHNSON: I think we might draw attention again to the fact that in the original Bill there was a limit put to the expenditure of election agents. In the case of a University constituency there will be no limit if this amendment is accepted. It seems to have been deliberately deleted.

Professor MAGENNIS: There is a reason for that, sir.

Mr. JOHNSON: I do not know whether those responsible had been in consultation with Deputy Magennis or other representatives of the Universities, but one must assume that they had been, judging by Deputy Magennis's eagerness to defend the omission.

AN CEANN COMHAIRLE: The point I take it, is that University candidates would not bribe and University graduates could not be bribed.

Professor MAGENNIS: The Deputy is rather premature in thinking that I am eager to defend this, but I am eager to express my gratitude to the Dáil that it recognises the justice of the plea that I put forward for more remuneration to University Professors and for members of the teaching staffs. The omission of this is a confession of faith in our protestations that it is impossible for a University Professor, as a candidate, to bribe anyone.

[THE DAIL RESUMES.]

Seanad amendments reported.

The PRESIDENT: I move that the Dáil agree with the Committee in the amendments.

Agreed.

AN CEANN COMHAIRLE: A message will accordingly be sent to the Seanad acquainting them that we have agreed to these amendments.

DEFENCE FORCES (TEMPORARY PROVISIONS) BILL—SPECIAL RESOLUTION.

MINISTER for DEFENCE (General Mulcahy): I beg to move the following resolution:—

"That it is hereby declared that the Bill entitled The Defence Forces (Temporary Provisions) Bill, 1923, which has been passed by this House, is necessary for the immediate preservation of the public peace and safety, and that, accordingly, the provisions of Article 47 of the Constitution of Saorstát Éireann shall not apply to that Bill."

This resolution, which the Dáil is asked to pass, is rendered necessary by the decision given in the Courts, which mean that the Defence Forces Bill passed by the Dáil, and which was yesterday passed in the Seanad without amendment, could not come into force for seven days. That would mean that legally I would have no power in the meantime to have or control an army or to discipline them, and that I would have no power to detain in custody military prisoners convicted of offences punishable under the military law. For that reason, and in order that the Defence Forces Bill may have legal effect as from the time of its passing, it is necessary to have this resolution passed by the Dáil. A similar resolution was yesterday passed by the Seanad.

The PRESIDENT: I second the motion.

Mr. DARRELL FIGGIS: I am not going to oppose this resolution if it be deemed a matter of necessity. I only want to say that it was the intention of the Constitution that certificates of this kind should be used very sparingly, and that they should be the exception rather than the rule. This is the third resolution of this nature that we have been asked to pass within two days. I mention the matter, not for the purpose of

opposing the resolution or to throw any obstruction in the way, but to urge that certificates to make one of the provisions of the Constitution null and void, if they are used, should be used sparingly. I should be reluctant to think that the Minister for Home Affairs will press for a certificate on the Intoxicating Liquors Bill.

Mr. JOHNSON: I do not know what grounds Deputy Figgis has for his reluctance to believe that the Minister for Home Affairs would press such a claim. There is at least as much necessity for that as for this. This Bill was a Bill of 200 odd clauses. It was submitted to us last week, and it was asked that it should not be considered in detail because there was need for regularising the acts of the Army in the past and putting the Army on a legal footing. It was made a temporary Bill, to last twelve months, and it was not suggested that it was a matter of supreme urgency. But for the suddenly disclosed intention to dissolve within a week or two there would have been time given for consideration of this Bill. It was only on account of the sudden decision to dissolve, and because the consideration of the Bill in detail would require considerable time, that the Dáil was persuaded to agree to its passing as a temporary Bill without full discussion. There was no suggestion made that it was a matter of immediate urgency. Now we are asked to say that it was. The Minister has not yet told us where the immediacy is, and surely seven days is not going to make it impossible. There is no sign whatever that there is any intention on the parts of two-fifths of the Dáil or the majority of the Seanad to move for the holding up of this Bill for ninety days. There is not the slightest sign that the country is wild about the Bill, for or against. The country knows nothing about it. This procedure suggests that it is a cheap matter and a small matter passing a resolution of this kind, and that it need not be considered. The Constitution does not matter; it was passed in a hurry and to achieve certain objects, and those objects having been attained, they can be thrown overboard. We, at least, ought to show some semblance of respect to that child of the Provisional Parliament, and unless there are good grounds stated here for this resolution, I think the Dáil should not agree to it.

Deputy Figgis points out that it was only to meet cases of extreme urgency that such a proviso was inserted. We ought to be told where the urgency lies before being asked to pass this resolution.

General MULCAHY: The necessity for passing this declaration arises out of the very unexpected decision of the Court given yesterday. While not agreeing that that is a proper and justified decision, it is necessary formally to accept it. The necessity for passing this resolution does not arise, in our opinion, out of any particular clause in the Constitution, but out of a misinterpretation of such a clause. The effect of the decision of the Court given yesterday, together with the effect of the decision given a day or two ago that a state of war did not exist, puts the Executive Council and those responsible for the Army in the position that, if we do not get this declaration passed now, for the next seven days there is no soldier in the Army who can be held to be responsible or subject to his immediate superior officers; there is no military prisoner, no prisoner convicted of any charges brought against him by his military superiors who, on a *habeas corpus* application, may not be set at liberty; there is no officer in the Army who has any legal right to arrest any soldier in the Army who has committed an offence either against the military law or against the civil law. It is to obviate a state of affairs like that, which I am sure the Dáil does not wish to have existing, that because of this exceptional decision in the Courts yesterday it is necessary to get this resolution passed.

Motion put and declared carried.

GARDA SIOCHANA (TEMPORARY PROVISIONS) BILL, 1923.

AMENDMENTS FROM THE SEANAD.

[THE DAIL IN COMMITTEE.]

Mr. O'HIGGINS: These amendments which were inserted in the Seanad are consequential on an amendment by Deputy O'Shannon which was accepted here on the Committee Stage, to change the formal official title to the words "Gáirda Síochána" from "Civic Guard." The three amendments are simply consequential on that amendment, and they are really official amend-

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ments which a Senator was kind enough to move. I think that Deputies will find that there is no point of substance in them, or no point which does not arise of necessity on the amendment by Deputy O'Shannon. I therefore move: "That the Dáil agree with the Seanad in these amendments."

Agreed.

LEAGUE OF NATIONS (GUARANTEE) BILL, 1923—COMMITTEE STAGE.

The PRESIDENT: I wish to say a few words on the Committee Stage of this Bill. First of all, there was a resolution in the Dáil on the 18th of September, 1922, introduced by Deputy Gavan Duffy, stating that it was the opinion of the Dáil that Ireland should join the League of Nations, and that application for admission to the League shall be made forthwith. There was an amendment by the Minister for External Affairs: "That it is the opinion of this Dáil that application for admission to the League of Nations should be made as and when the Government finds it advantageous," and that was passed. Subsequently discussion took place in the Seanad, and the Bill was introduced into the Seanad this week. It has been passed by them, and it is now before the Dáil. It really carries into effect the purpose of the resolution passed in the Dáil in September. I do not think it is necessary to say anything further about it.

Mr. DARRELL FIGGIS: Could one have a little further information, which I was rather expecting the President would take this opportunity of providing, to deal with what is meant by the words in this section, "It shall be lawful"—I am reading the sentence without its parenthesis in order to get the continuity of the sense—"for the Executive Council to give to the League such guarantees as shall be thought proper by the Executive Council and be acceptable to the League, of the sincere intention of Saorstát Éireann to observe its international obligations." I am in favour of the general principle of Ireland joining the League of Nations, and have always been, but there are certain procedures of the League of Nations that have been a

little disquieting. If certain obligations were required of the Saorstát, which were to be left to the Executive Council of the day, and if they should decide that Ireland shall be called upon to fulfil her international obligations by furnishing, say, an army in a certain place far removed from Ireland, and in matters that do not in the least degree affect Ireland, surely in a matter of that kind the Oireachtas as a whole should have a voice in this decision, and should have a voice in any matters that might lead to so unfortunate a matter—that the matter should not be left entirely to the Executive Council. I was, therefore, hoping to have the time to draft some amendment, but not having the time, I put forward a suggestion now to the President, both as guarding the Dáil and as guarding the Executive Council, that if these guarantees be asked for, the Executive Council shall first lay them on the Table of the Dáil, and that they should normally become of effect unless exception were taken to them. At the present moment there is nothing in the objection that I make. There is no danger that I imagine might be likely to arise, but it could arise in the future, and I think it desirable for that to be inserted now in order that the Executive Council should have the Legislature behind it in giving such guarantees as may be put upon it by the League of Nations. If this were passed as it stands, if the Executive Council were to be called upon by the League of Nations to give certain guarantees which it did not feel it was justified in giving without consultation with the Parliament, in that case I am not sure whether this Act, having been recited before the League, would not empower the League to request the Executive Council to take these decisions in too great a haste, without it being possible that the Parliament could be consulted. I would think that that would be wise, and I hope the President would see the justice of the points I am making, that some safeguard of that kind should be required; that the matter should not be left entirely between the Executive Council and the League, but that behind the Executive Council Parliament should always appear.

The PRESIDENT: I take it that it will be conceded that in a matter of this kind we are not claiming more than any

other nation which has joined the League of Nations, and it is open to question whether, if any meetings of this kind of bodies which have duly accredited representatives on behalf of certain nations, whether in every case in which matters come up for consideration and that decisions have to be taken, it is at all likely that there is a possibility of coming to an agreement if every such question and decision must be submitted to the representative Parliaments by the representatives of these Parliaments in such a body as the League of Nations. Let us assume, for a moment, that the matter to be decided is the limitation of armaments, and that that limitation should form the basis of some ratio to population and that the assembled delegates there say, "This is a matter upon which we must receive instructions from our respective Governments before we come to any agreement," what likelihood is there of any agreement on a matter of that kind? What usually happens, as I take it, is that a body like this, composed of the representatives of various countries, considers certain proposals, discusses them, amends them, perhaps, from their original introduction, and adopts them. They are then submitted, I assume, for ratification to the various countries, and they are ratified. Some simplification takes place there, but why not, if matters which are the subject of consideration by bodies like the League of Nations, go further than submit them to Parliament, and submit them to a referendum? Why not carry that system out in regard to every item of legislation which comes before us? We are not claiming that the consideration of every matter which is the subject of legislation in Parliament could not be more democratically pronounced upon if it were submitted to the decision of the people, but we know that society in regulating its life and work, adopts simpler methods of procedure, even though it is not a cast-iron approval of the most extended possible conception of the democratic idea, although a reactionary democrat might say it is not really the democratically expressed will of the people unless it has been subscribed to by them. I would say, from my experience of public matters, that it would be open to any section of the community to claim that every matter under

the consideration of Parliament should be submitted to the consideration of the people. You see at once how difficult and complicated it would be to get decisions upon cases, and how extremely expensive it would be. We know that while each country in considering a question of that kind will have its own paramount interests before it, and will not be in a position to appraise the value of representations made by other countries, there would be no possibility of agreement. If each country considered only its own needs and requirements there is a possibility that each would instruct its representatives that they could not go beyond a certain distance. There would be no finality in these matters. I am satisfied, from the explanation given by the Minister for External Affairs in the Seanad in regard to this matter, that there are sufficient safeguards to protect the respective countries who are in the League of Nations by the codes regulating the business of the League in that respect. The obligations incurred in joining are set forth in the Covenant, especially Articles VIII-XVII. They are usually summarised in the following sub-heads:—

- (1) Limitation of armaments.
- (2) A mutual guarantee of territory and independence.
- (3) Admission that any circumstance which threatens international peace is an international interest.
- (4) An agreement not to go to war.
- (5) Acceptance of machinery for securing a peaceful settlement, with provision for publicity.
- (6) The sanctions to be employed to punish a breach of the agreement in (4).
- (7) Similar provisions for settling disputes where States not members of the League are concerned.

Mr. DARRELL FIGGIS: I do not press my point. I put what I thought was reasonable, and I certainly did not expect the deluge which has descended upon me. I would like to say that I had not spoken about a referendum of the people at all. I never touched on it or imagined it. I was not speaking of the decisions taken in Council together. That never entered my imagination. I was dealing with something that was quite clear and explicit, and that is to be done in this phrase, "Such guarantees

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as shall be thought proper as between the Executive Council and the League of Nations." The President has said that in Council it might be thought desirable to adopt disarmament. Everybody would be delighted if that was so, but I imagine the Executive Council would need no extraordinary consultation to bring about that. But supposing it brought about the reverse. Supposing it required an increase of armaments, and that is not at all an unlikely proposition in the state of Europe at the present time, how would the matter stand?

Motion made and question put: "That Section 1 stand part of the Bill."

Agreed.

Sections 2 and 3 agreed.

Motion made and question put: "That the Preamble stand part of the Bill."

Agreed.

Motion made and question put: "That the Title stand part of the Bill."

Agreed.

[DAIL RESUMES]

Bill reported without amendment.

The PRESIDENT: I move: "That the Bill be received for final consideration."

Agreed.

The PRESIDENT: I move: "That the Bill do now pass."

Agreed.

INTOXICATING LIQUOR BILL. SECOND STAGE.

Mr. O'HIGGINS: In moving the Second Stage of this Bill I want to make it clear that it does not purport to be anything like an exhaustive treatment of the problems which arise with regard to the liquor traffic in this country. In considering that I have always recognised what I think most of the Deputies will accept as axiomatic, that there are too many licences for this particular trade in this country, and that such abuses as exist, and such abuses as arose in the past, are due very largely to the fact that there was scarcely enough of legitimate trade to go round, and that you had the spectacle of people breaking the law to pick

up the crumbs that fall from the table of those in a more substantial way. I think that the problem will never be adequately dealt with until some provision is made considerably to reduce the number of licences. I do not propose to go into comparative statistics, but I think that every thoughtful person is aware that there are too many public houses per head of the population.

To deal with that aspect of the thing would involve some scheme of purchase, and that must be another day's work for some future Parliament. This Bill in its 12 sections merely aims at checking certain existing abuses and anomalies. I have not attempted to deal with all the abuses that exist, on the assumption that they will continue to exist, and the only cure is complete abolition of the provisions which give rise to them. I have not, for instance, attempted to deal with or touch in any way the *bona fide* traveller. It remains to be seen whether such abuses as arise from that are abuses incapable of being dealt with by the new police force when it has grown to its normal strength.

But I do say this, in a quite fair and reasonable spirit, that the members of this trade themselves must realise that if these abuses continue, and if they prove to be impossible of treatment by normal vigilance and exercise on the part of the police, then some Minister or Ministry in the future will have to face that fact if it is doing its duty in a responsible spirit. We will have to deal with that question either by way of an extension of the distance or by the abolition of the privilege. No personage has so much abused his legal privileges as the *bona fide* traveller, and if he is abolished by law, he will be abolished for the reasons that he abused his legal privileges up to the point when they became a nuisance. I just say that. The members of the trade really have, in this matter, their future in their own hands, but I do believe that if the grave abuses arising out of the *bona fide* traffic are not found to be amenable to normal vigilance and treatment by the police force, that fact will have to be faced. This Bill in its first section deals with hours:

(1) It shall not be lawful for any person to sell or expose for sale any intoxicating liquor or to open any pre-

mises for the sale of intoxicating liquors on any day not being a Sunday, Good Friday, or Christmas Day before the hour of nine o'clock in the morning or after the hour of half-past nine o'clock in the evening. This sub-section shall not apply to any licensed person who is the owner or lessee of a theatre, music hall, or other place of public amusement.

The effect of that will be to leave untouched the hours on Sundays, Good Fridays, and Christmas Day, and to leave the hours of the ordinary week-day from 9 a.m. to 9.30 p.m. Some Deputies seem to think that because there was no special mention made of the hours on Sundays, Good Fridays, or Christmas Days, some point might arise in the future about that. I do not think that can be so. Indeed, I am quite satisfied that it is not so, and the existing law will stand except where altered by the provisions of this Bill. Therefore, the statutory hours and regulations with regard to Sunday, Good Friday, and Christmas Day will remain as they now are. Sub-section (2) of Section 1 deals with theatres, music halls, and places of amusement that have licences, and provides that:

It shall not be lawful for any person to sell or expose for sale any intoxicating liquor in any theatre, music hall, or other place of public amusement at any time being more than thirty minutes before the commencement of a performance or entertainment or at any time being more than thirty minutes after the end of a performance or entertainment or at any time after ten o'clock in the night.

The second section of the Bill is simply an enabling section to deal with a situation that might not arise half a dozen times in the year. But it might happen that on some occasion, in a town or in a village where you have a large concourse of people, that a situation might arise that would almost get out of hand, from the point of view of being dealt with by the small number of Guards that would be established in that place. That situation might either arise, in the first instance from drink, or it might, having arisen from some other cause, be greatly intensified by the fact that the licensed establishments were open and doing business. We submit,

for the consideration of Deputies, that at the request of the responsible police officer the District Justice should have power, if he is satisfied that a case of grave abuse prejudicial to peace and order has arisen and is in fact taking place in any town or village, to order the immediate closing of the houses if he is satisfied that it is expedient that the sale of intoxicating liquors should cease, and that he may order the immediate closing for the remainder of that day of all premises licensed for the sale of intoxicating liquor in that village or town.

I put that up for the consideration of Deputies, believing that if it is embodied in the Bill and conceded, it might be a very useful provision at some time in the future to prevent grave trouble arising in the form of riot or artificial excitement of that kind.

Now, the third section deals with penalties for opening during prohibited hours. It is purely a consequential section, and is to transfer the existing penalties which referred to the existing hours to the altered hours provided for in the Bill; and Section 4 deals with exceptions from the application of the Act and the regulations about hours. It says:

Nothing in this part of this Act shall be construed to apply to sales of intoxicating liquor to lodgers, or to the sale of intoxicating liquor in packet boats, or in canteens in pursuance of any Act regulating the same, or in a registered club as defined by the Registration of Clubs (Ireland) Act, 1904, or shall preclude the sale at any time at a railway station of intoxicating liquors on arrival or departure of trains, or the sale of intoxicating liquor to *bona fide* travellers within the meaning of the Licensing (Ireland) Acts, 1833 to 1905.

These are the proposed exceptions to the general rule of hours.

Now, Part II. of the Bill deals with clubs. Clause 5 says:

(1) In order that any club may be eligible to be registered under the Registration of Clubs (Ireland) Act 1904, the rules of the club shall (in addition to the matters mentioned in Section 4 of the said Act) provide that no excisable liquor shall be supplied to any person (other than members of the club lodging in the club premises) before the hour of nine o'clock in the

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morning or after the hour of half-past nine o'clock in the evening on any day.

(2) This section shall not apply to any club which at the passing of this Act is registered under the Registration of Clubs (Ireland) Act, 1904, until the expiration of the certificate of registration of such club which shall be in force at the expiration of two months from the passing of this Act.

Now, the force of that is to bring the club hours into uniformity with the hours of licensed establishments, except for people who are genuinely lodging upon the premises, and who would be in the same position as residents in a hotel. They will not apply to existing certificates, but would apply upon application for a renewal. I have heard that section commented upon, but I want to know a case against it. After all, is it right or proper or a healthy thing for the country that under the guise of clubs little all-night drinking shops should spring up all over the country? I am afraid that to an extent that is the tendency, and that that is what has been happening. Deputies may say that that should be provided against when applications are made for certificates and for registration, and that we should be very strict and careful in considering the rules of the club. In reply to that, I have only to say that a club may make an excellent start and degenerate very rapidly, and I do not see a case for the extension of the hours for the sale of drink in clubs beyond the ordinary hours. After all, a twelve and a-half hours day is a long time for drinking, and a man who could sit out all that time should have a pretty good head. At any rate, I will be interested to hear from Deputies who oppose this section the case against it. I think it is substantially true to say that a big proportion of the night crimes that are committed and have been committed throughout the country are attributable to these clubs. Men coming out of them in the small hours of the morning, not in a very responsible frame of mind, are in just that mood that their grievances loom very big, and they come out and take vengeance upon their neighbours. I think it would be a sound thing, and a healthy and a good thing, for the country to make the hours in the clubs the same as in licensed premises, except for people

bona fide lodging upon the premises. Passing to Section 6, it is largely consequential upon Section 5. It provides that clubs may be searched by the police, and that a search order may be issued authorising their inspection, and it provides a penalty for persons refusing their names and addresses. I think, if Section 5 is approved, it will be agreed that it will be futile and inoperative without Section 6.

Section 7, in Part III. of the Bill, deals with offences and penalties. It provides for forfeiture of a licence on conviction of certain offences:

- (a) Selling illicitly distilled spirits, or
- (b) Having possession of illicitly distilled spirits, or
- (c) Harboursing, keeping, or concealing illicitly distilled spirits.

I will not treat the House to another tirade upon poteen and its effects upon people, but I do not think it is seriously questioned that it is a grave evil, and up to quite recently it was a growing evil, and it is necessary for a healthy State that it should be stamped out. Sub-section (2) of Section 7 says:

Whenever a spirit grocer as defined by Section 81 of the Licensing Act, 1872, shall be convicted of an offence under Section 83 or Section 84 (which sections relate to the consumption of liquor on or near the premises of a spirit grocer) of that Act, the licence of such spirit grocer in the case of a first such offence may be forfeited, and in the case of a second such offence shall be forfeited.

That is to deal with a case of a man who goes outside the terms of his licence. Licences to spirit grocers are granted upon certain very definite conditions, and a breach of these conditions should involve the forfeiture of the licence.

Section 8 doubles the fines. It reads:

All and every fine or other money penalty imposed by any of the Licensing (Ireland) Acts, 1833 to 1905, or the Spirits (Ireland) Act, 1831, the Spirits (Ireland) Act, 1854, the Spirits (Ireland) Act, 1855, or the Spirits (Ireland) Act, 1857, or authorised by any of those Acts to be imposed, shall on and after the passing of this Act be and the same are hereby increased to double the amounts respectively mentioned in those Acts.

I do not know whether Deputies will accept the details advanced in that section, but these fines were fixed at a period when money had a very different value from what it has to-day. Amongst the representatives of the trade to whom I spoke in reference to that section there was no serious demur. It was recognised that the maxima of fines fixed a great many years ago—in 1833, 1854, and up to 1905—were fixed at a time when the purchasing power of money was very different from what it is now. There is a case for the doubling of the fines just the same as there was when we were dealing with the District Justices Bill for doubling the fees and expenses in connection with the Courts which had been fixed a great many years ago.

Passing on to Part IV., which is miscellaneous, it deals with a variety of matter—the powers of granting new licences. It says:

(1) The power of granting new licences conferred by Section 4 of the Licensing (Ireland) Act, 1902, shall only be exercisable where the increase of population referred to in that section amounts to an increase of not less than twenty-five per cent. in the census return last published before the date of the application for the new licence, over the population of that city or town as stated in the next preceding census return.

(2) A new licence shall only be granted under the said Section 4 of the Licensing (Ireland) Act, 1902, in substitution for two or more such existing licences as are mentioned in that section.

(3) Section 3 of the Licensing (Ireland) Act, 1902, is hereby repealed.

I have put in a new section in the original draft—that is, Section 10—which covers the case of hardships which I found existed on a very fairly large scale throughout the country. During the years that the magistrates were not functioning people had not the ordinary facilities for applying for a renewal of certificates, and this Section 10 is to cover them and to provide, because of that, that the licences ought not to be held to have lapsed during the period that the traders were carrying on without a formal certificate.

Section 11 deals with restrictions of the sale of methylated spirits. Dublin

Deputies are aware of the extent of this evil, and are aware that the drinking of methylated spirit is a growing evil. It is a problem that has proved difficult in other countries, and I do not for a moment believe that the provisions of this Bill are final or adequate treatment on that, or do anything more than go some way to check the evil. This Section forbids the sale of methylated spirits between the hours of nine o'clock on Saturday evening and nine o'clock of the following Monday morning, and it provides that the name and address of the buyer of methylated spirits must be known to the seller or vouched for by some person known to the seller. He must state the purposes for which he requires the spirits. It also provides that a book, just as in the case of poisons, shall be kept, and the names and addresses of purchasers entered into it, together with the purpose, or alleged purpose, for which the spirits were bought, and the quantity sold, and the date. It also gives power of inspection to Excise officers and police.

Section 12 is the last section, and it simply closes a certain loophole which existed in the past with regard to poteen-making. I think there was a decision of the Courts that a bog was not a "place" within the meaning of the Act, and consequently bogs were largely used. Section 12 states:

In the construction and application of Section 19 of the Spirits (Ireland) Act, 1831, the expression "room or place" as used in that section shall include and be deemed always to have included any building whatsoever, and any yard, garden, field, bog, or other piece of ground, and any cave or other underground place whether natural or artificial, and any boat, vessel, or other structure on, in, or under water.

I hope that if that section passes it will be found in practice to be sufficiently comprehensive.

That is the Bill. We have gone through its provisions. I do not believe there is any provision in it that would not react for the benefit of the country, and that would not help appreciably to restore normal, decent conditions of life within the country. I hope that the Bill will receive substantial agreement amongst Deputies. If there is serious objection taken to any portion of it, I am

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prepared to reason that out and to attempt to meet such objection. I have brought in the Bill that I think ought to pass. The twelve provisions, I think, would be for the benefit of the country and for the benefit of the people of the country. While I say that, I realise that now, at the close of the Session, I could not persist if any serious opposition were to crystallise around any particular section. So it is simply in the hands of Deputies. I think that no provision ought to be objected to without a good and reasonable case being put up against it.

MINISTER for EXTERNAL AFFAIRS (Mr. D. Fitzgerald): I second the motion.

Mr. JOHNSON: I am in a position somewhat different from the man in the picture—"twixt love and duty." I am in the position, twixt hate and duty. I agree pretty well with everything the Minister said about this Bill—at least about the necessity for some such Bill—and probably with all the clauses of the Bill in a general way. But I think it would be a dereliction of duty to pass the Bill without the people interested and affected having had some opportunity to examine and consider it. It seems to me that we are being driven to the choice whether this Dáil is to be a House of the Oireachtas—a Legislative Assembly—or whether, as I hinted last night, the Constitution under which we are going to work for the future is to be one, not Parliamentary in the sense that it is generally understood, but a Constitution which approximates to that of the Russian Soviet Republic, where there are gradations rising from College to College to the Central Executive; the full responsibility is placed upon the Executive, and the rest have simply to record agreement. I think that we are being driven to that choice. I would prefer, if we are going to choose the latter, that we should do it quite openly and with our eyes open. It is not desirable to recast the conception of the Constitution by these rather unthought-out methods. That is not the openly avowed intention, and probably is not the intention of the Minister for Home Affairs, but that is the effect of this kind of procedure. Take this Bill in its present form. The Minis-

ter has not suggested that the House should sit for, say, another fortnight, so that the Bill can be circulated and considered, and the effect of these various Acts which are referred to in the Bill can be examined. It strikes me that we are asked to do too much in this Bill in the short time at our disposal. As it is, it raises questions that have caused enormous trouble in other countries, and in this country we are going to solve it—at least we are going some distance towards solving it in the mind of the Minister—by this Bill, which is not to receive consideration. While I would personally like to see most of these provisions in operation, I think it is not right for us to pass a Bill of this kind and turn it into an Act of the Oireachtas without proper consideration and examination of the effects upon the citizens of the country. Take Section 1. It makes no distinction between city, town, and country. It allows a person who is the owner of a public-house and is licensed, and who is also the owner of a theatre or music hall, to get outside the provisions of the subsection. I suppose that is not the intention, but, it shows the necessity for examining closely not merely this section, but all the sections of the Bill.

Mr. GAVAN DUFFY: Read sub-section 2.

Mr. JOHNSON: Sub-section 2 allows the owner of a theatre or music hall an extra thirty minutes. Section 1 says that this sub-section shall not apply to any licensed person who is the owner or lessee of a theatre, so that if he is a licensed person and is the owner or lessee of a theatre he may keep open his public house beyond 9.30 in the evening. As I say, that is not the intention, but it is the effect. It merely shows the necessity for an examination of this Bill. I do not want to go into the details or to raise various points of that kind. As a matter of fact, I only received the Bill at 11.30 last night, and I have not been able to examine it. But that lapse is obvious, and it shows the necessity for closer examination than the Bill can get if we are to deal with it thoroughly. My objection really is to the wide sweep of this Bill. It brings into its operations all sections of the community who are interested in the traffic of intoxicating liquors—not only the consumers, but the

retailers—and it seems to me that we would be doing an injustice—we would not be carrying out our duties and responsibilities fairly—if we allowed this Bill to pass in a hurry, simply on these grounds that those who are generally affected and likely to be affected have had no opportunity of considering the Bill or its implications. While that is true in a general way there is something to be said, perhaps, for the intention of Section 1 to limit the hours of sale, because, as a matter of fact, to a very great extent the hours have been voluntarily limited in the way they are to be legally limited by the Bill. The effect of Section 1, at any rate, would be rather to extend to those who have not come into the voluntary agreement the necessity for falling into the arrangement which has already been arrived at. It is rather to do for this trade what has been done in other trades, that where the most interested parties have come to a voluntary understanding, then that voluntary understanding shall be ratified by law so as to cover the remainder. I think, to that extent, an exception might be made in regard to the hours of opening, but I would draw attention to this point that the hour of half-past nine is general and covers the whole country. In many parts of the country half-past nine, legal time, is half-past eight in practice. In the towns they will be working on legal time—summer time—and a mile out they will be working on old time. I can see that there you would have complication. The effect of the half-past nine closing will be, of course, that men will not have as long an evening in which to enjoy what they consider to be the one pleasure in life. Perhaps, one unforeseen effect which I hope commends itself to the Minister, and will commend itself to the Dáil, is that men who look to these few hours recreation—recreation in its literal sense—will say “We are quite willing to cut the hours of entertainment—the clock hours—but we must have the same number of hours of entertainment, and therefore, must have a shorter working day.” That will, probably, be one effect of the Bill—an indirect effect—in the towns, that the hours of work will be cut by, say, one hour. We will be closing at half-past four instead of half-past five, so that the number of hours recreation in the public

house will not be reduced. The position that I would take up as regards the Bill would be this, that because of the general agreement between the parties interested in this trade regarding the shortening of the hours of opening and the fact that such agreements are, already, to a very great extent, in effect, that portion of the Bill might be agreed to, but that the remainder which affects new interests which have not come to agreement, and do not understand the implications of which there can be no criticism, ought not to be pressed forward. I do not know what amendments would be required, but it seems to me that Section 1 itself would be quite enough, unless it may be that already the Minister may have power to reduce the hours of opening. In the many Bills that have been passed I would not be surprised to be told that there was a section or an unrepealed clause of some old Restoration of Order in Ireland Act or something of the kind in which the Minister has power to effect this shorter opening of public houses. If that were so, it would be better to bring about this prohibition in that way for a short period. However, assuming that that is not the case, I am prepared to support the section dealing with the hours of opening, but I would urge that the remainder of the Bill ought not to be pressed at this stage, unless the question of the extent of the Session has been reconsidered, and that we might go on for another week or two. In that case I have no doubt that the Bill can receive proper examination, and I would be quite glad to facilitate its passing in such circumstances.

Mr. DARRELL FIGGIS: I desire briefly to support the view put forward by Deputy Johnson. There are matters of contention in the Bill, not so acute in regard to details as in regard to general principles, but there are such matters, as the Minister would himself frankly recognise. The real necessity for this Bill at this moment, is to get sufficient regulation with regard to the hours of opening and closing. That is the prime necessity. That is why some Bill of this kind has been urgently called for, and there has been a very clear need for it, because the hours

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have been very irregular in different places and the regulations now in force had a very inequitable effect. That has been admitted, and it is because of that that there has been a desire that there should be a clear regulation as to the hours of opening and closing. But once we leave that, as a matter of consent, we come to other questions where there is not exactly the same degree of consent and, so far as I am personally concerned, I think that outside that matter, having read the Bill once or twice, not with such care as would be required, it is a good Bill, and I have no objection to many parts of it where objections are, nevertheless, raised. I am not now dealing with the thing from a personal point of view. I am not looking at it from the public point of view, where there is consent in the public mind. There is consent among all the interests concerned that there should be some clear regulation laid down as to the hours of opening and closing, but there is not that measure of consent in other matters. The Minister himself, in proposing the Second Reading, very reasonably and very fairly indicated his apprehension in this regard, and suggested frankly that he would not press matters where there was likely to be, I will not say contention, but the lack of such agreement as would be required. I think Deputy Johnson has put the matter quite fairly, and I support him very heartily and strongly upon it, that the present Bill should be confined to the question of the hours of opening and closing, having regard to the matter that he raised as to the application of Summer Time and Sun Time and God's Time and every other time that there may be or may not be; that there should be a Bill now to meet that pressing need as to the question of regulation of hours, and that all other matters should be left over until they can be thrashed out in much fuller detail and with much greater care than is possible now at the heel of a Session. I urge the Minister, therefore, to confine the Bill to this matter, and to leave all other matters over, except that personally I would very much desire to see Section 11 put through, because I do think that evidence has been brought home of the very great evil that exists in Dublin at

present in regard to the consumption of methylated spirits. That, I state, as my own personal view. Generally speaking, I would like to suggest that the course put forward by Deputy Johnson be accepted by the Minister.

Professor MAGENNIS: It is in accordance with the fitness of things that a Bill to promote temperance should be proposed and should be criticised with such a spirit of temperance as Deputy Johnson and Deputy Figgis have so admirably displayed. I am very glad—it is the first time I have really been glad—that Deputy Gorey is not present to-day, or he would have registered with his accustomed emphasis the damning admission made by Deputy Johnson that the hours of labour for the working man will automatically adjust themselves to the closing hour as fixed by the Bill. I know that he does not mean that either by way of incitement to the workmen or as his serious and considering belief of the attitude of the workman towards his work. It is merely an attempt to intimidate us from carrying through certain portions of this measure. Like Deputy Figgis, I consider this is a good Bill, but I do not propose, as he does, to eviscerate a good Bill and take from its organism some of its most useful provisions. I can well understand why Deputy Figgis, who considers this a good Bill, should want Part II. omitted. You, Sir, and possibly many of your colleagues, had the pleasure yesterday evening of seeing a delightful sketch in the *Evening Herald* of Deputy Figgis on his way to the golf links. Now, one of the operations of Part II. with regard to clubs would bring this unhappy state of things to pass, that when Deputy Figgis, golfer, not legislator or statesman, should arrive, on a sultry summer evening, at the 19th hole he would find himself like the poor dog in Old Mother Hubbard: "When she went there the cupboard—in this case the bar—was bare, and so the poor dog got none." If Deputy Johnson had lived in the middle ages he would have disputed with Duns Scotus, the right to the title of Doctor Subtilis. The subtlety that he displays on all occasions excites my envy and admiration. With regard to Section 1 he has exercised it very effectively to-day. He had discovered

that the Sub-section does not apply to any licensed person who is the owner of a theatre; that the theatre-owner or lessee may keep a publichouse in any other locality open to a later hour, and he considers that because that might be read by a rival subtle interpreter out of the measure, that we should postpone it in order to get time to consider it further, whereas half the Section would inform him, if he read it aright, that it does not apply to any licensed premises which are in or part of a theatre, music hall or other place of public amusement. I should have thought that he would have advocated, inasmuch as the bar of the Dáil is admittedly a place of public amusement and as he proposes to have all-night sittings in the future, that the wording in this should be made more precise in the interests thereof.

Mr. JOHNSON: There will be a schedule for that.

Professor MAGENNIS: I am surprised Deputy Figgis did not utilise his opportunities on behalf of hotel owners. It has always been a grievance to the playgoer in Dublin that when the performance is over there is no place open to him. Unless he is a clubman he has to go home hungry or thirsty, or both. Many will recollect that a short measure was introduced by one of the Irish Parliamentary Party into the British House of Commons, and it was passed, providing for that. If you read Section 1. Sub-section (1), and Section 4, I would suggest that it is possible to put into one or other of them a provision allowing intoxicating drinks, such as wines, for example, to be sold if taken in conjunction with some repast, however light, during an hour, say, or half-an-hour or forty-five minutes after the normal closing hour. Personally, like Deputy Johnson, I am speaking as between love and duty, being, if I may be egotistical enough to contribute a chapter to my own autobiography, a practical teetotaler.

Mr. DARRELL FIGGIS: Practical?

Professor MAGENNIS: Yes, practical, not theoretical. I do think that it is quite fair in a city like Dublin or Cork where there are a large number of pleasure-loving people whose enjoyment really begins in the evening, having been

hard at work during the day, that the possibility that they might require refreshment should be provided for in this way. I think it would be easy to amend the Bill in that respect. There is one very excellent provision in Part 1 which I applaud most heartily, and that is Section 2, which the Minister read, enabling a District Justice in his discretion where he thinks it necessary for the welfare of a district or village to close licensed premises. That is a very desirable innovation. There is another thing also which I think is admirable, and I am quite sure that the respectable members of the licensed trade, and that means the vast majority of the members of the licensed trade, will also applaud it, and that is in Part 3, the increase of penalties for offending spirit grocers. The spirit grocer, as we are all aware, if he is not strictly scrupulous and conscientious, is really a danger to the community. It is notorious in the northern towns, with which I am familiar, that under the heading of "groceries" debts are run up by women without the knowledge of their husbands, who are, of course, answerable for the debt. What is really provided is drink. The spirit grocer has opportunities, and he is subject to a form of temptation from which the others are exempt, and even the most worthy will succumb, or may succumb, when the temptation is very great.

In one of the preparations of a cinema film the controller attempted to induce a negro to lie down with a lion, and when he protested vigorously he was told that the lion was quite harmless, that he had been brought up on milk. I need not point the moral of the negro's reply, "I was brought up on milk, too, but I eat meat now." The opportunity oftentimes makes the culprit. I think it is a very desirable thing to hold out a threat that on a first offence the licence could be endorsed, but on a second occasion it is imperative not to endorse it, but to make it forfeit. That is the effect of Sub-section (2) of Section 7. A public house licence, or a licence to sell intoxicants, is really a monopoly granted by the State. It is a privilege which society gives, and that privilege ought to be exercised carefully, and it ought to be very carefully watched on behalf of the citizen. I remember as a child at a Belfast pantomime, when the subject of

[Professor Magennis.]

Sunday closing and early closing was one of the burning questions of the hour, the popular song had the refrain, "Why they close the pubs, and keep open the clubs I haven't the slightest idea." I never dreamed that long years afterwards I should be called upon to listen to the elements of an idea in answer to the question. It is a matter of common knowledge that the better class clubs that are very well conducted and carefully controlled by the managers could not really keep the bar on paying terms if they were not allowed time a little longer than the ordinary public house hours. So it seems to me that Section 5 might allow that hour to be 10 o'clock in the evening instead of 9.30 with regard to those clubs that are satisfactory in their arrangements. Of course it is possible that that would not be long enough, but it is also possible that the whole question of Part II. might be reconsidered to some extent, because it is very necessary to distinguish in practice between what the Minister spoke of as an all-night drinking shop and what is really a regularly and properly worked place of recreation. As regard Section 11, which has won the approval of Deputy Figgis, as he does not want methylated spirits, I think it would be well to include ether also. In some of the Northern counties where they are of a very inquiring and scientific disposition it was discovered that a man could be drunk three times in the afternoon for an expenditure of 2/-, that is eight pence per "drunk." Ether, I need not say, is a very deadly drink, and it is much more desirable that intoxication by way of inhalation of ether should be stopped than intoxication by methylated spirits. There is a certain amount of alteration in the licensing laws which are really to be described as drastic, as regards the limitations and restraints on licences of the legitimate traders. It is all the more incumbent to leave no opening possible for the illegitimate trading in intoxicants, and if people have recourse to chemists and druggists to procure methylated spirits they should not be permitted to procure ether instead. That is really the one amendment I should be particularly anxious to have introduced here. Remember the number of people in villages and country towns in Ulster who are absolutely drunk

on the afternoon of fair days is almost beyond calculation at times.

That sounds an exaggeration, but it is really true. The demoralisation which sets in as a natural sequence to drunkenness through ether is unfortunately greater than the drunkenness that is merely traceable to whiskey. That is not an advertisement for whiskey, but is intended to be an attack upon the use of ether. As regards the Bill in its entirety, I should like to make it plain that it is only legislation by way of partial amendment. It is not an attempt, as the Minister has said in his speech, to make the amendment which the situation really demands, and which I have no doubt we would attempt to make if the time at our disposal were more than it is, but instalments are always welcome, and viewing this as an instalment of a greater measure and an instalment that makes for the public welfare and for the reduction of the opportunity for the creation of riot, disorder, and the demoralisation of the people which a too great indulgence in politics has brought about, I thoroughly welcome and approve of it.

Mr. GAVAN DUFFY: I desire very briefly to support the point of view put forward by Deputy Johnson, and I think the Minister is to be congratulated on showing an intention and desire to deal with licensing abuses; but having shown that, and having got a Second Reading, I think he ought to drop so much of the Bill as is not urgent, because an even more important principle is the principle that we should not rush legislation. I do not think that any case can be made for rushing, without due consideration, a great many of the Sections of this Bill. I think there is urgency for Part 1 of the Bill, and perhaps for Section 10, but I am going to ask the Minister if he can see his way to drop the rest of the Bill after he has got through his Second Reading. I think he will have done a good deal by getting the whole Bill as far as Second Reading Stage, because that is an indication, and as an indication it will be very useful. I am, if it be possible, even more innocent than Deputy Magennis on this question, and I am certainly quite impartial, but in the very short space of time in which this Bill has been before us and before the public, I have already had representa-

tions from a number of very reputable persons, all well known persons in the City and County of Dublin, pointing out certain obvious objections to the Bill, which make me feel very strongly that it is wrong that any undue haste should be shown. If an immediate decision is to be asked for, the Minister ought to give some very explicit reasons why that immediate decision is necessary.

I admit fully that there is an immediate necessity for dealing with the opening and closing hours as Part 1 does, because the confusion created by the pre-war system of ours, and what I may call the war hours introduced by emergency regulations, has caused very considerable annoyance and unfairness. That part of the Bill has been very cordially welcomed, and I do not suppose there will be any objection to it. Section 2 is also a courageous and useful proposal, which gives power for the closing of licensed premises in places where disorder should make that necessary. I would ask the Minister's consideration for one point on that Section. The Bill, as drafted, proposes that "a District Justice may be satisfied on the application of a Civic Guard Superintendent or Inspector." I think that application should be a sworn statement or an affidavit. I do not think the District Justice should be empowered to close the licensing places in a town or village except upon evidence taken on oath. The effect of his order may very seriously prejudice a great many people, and it is desirable that the person causing the orders to be made should pin himself on oath to the statements upon which the magistrate is asked to act, particularly as cases of this kind are liable to be brought up afterwards in the High Court, and it would be very undesirable to have to deal with cases where Justices had ordered a closure, having before them only a statement unsupported on oath of a gentleman who might be acting in a panic and acting without due consideration.

I hope that the Minister will agree that it is necessary to strengthen that particular Section by making the oath a condition precedent. It seems to me that we had one or two examples of the danger of rushing this measure. First of all, Deputy Johnson discovered that you could keep your licensed house open

all day and all night provided that you had a theatre or a music hall.

Mr. O'HIGGINS: With regard to that, I desire to say that I think that strictly and technically Deputy Johnson is probably right, but the words of the Section are taken bodily from a British statute which has been in force for a long time, and no case has ever cropped up of a person attempting to keep his public house open all night simply because he owned a theatre up the road.

ACTING CHAIRMAN: That scarcely touches the principle of the Bill, because a couple of words would make it all right on the Committee Stage.

Mr. GAVAN DUFFY: It touches this principle, that it shows a trap in this Section, and as far as I know there may be many other traps in other Sections, all of which goes to show the danger of hasty legislation. I do not think any responsible person connected with the licensing trade, and certainly no responsible person connected with the registration of clubs, would take the view that the hours for ordinary licensed premises should be the same as the hours for clubs. I think the position has only to be mentioned for everyone to see at once that clubs should have at least one hour longer for remaining open than ordinary licensed houses.

Mr. JOHNSON: I would like to hear the reason for that.

Mr. GAVAN DUFFY: The Deputy pretends a strange innocence. Surely it is obvious that places that are under control in the way clubs are, and which licensed premises are not—places used by many people in large part as a means of recreation, and which are not intended for drinking purposes, but where drink is merely accidental—are in a different category to places where drink is the main *raison d'être*. I take it that in bringing in this Bill the Minister, as he has told us, consulted the interests concerned, but I question whether persons interested in Section 2 were consulted. I think their rights should be consulted, because a serious injustice might be done to them under the Section—if a place which is not a drinking place, ordinarily so-called, is treated as if it were a public house just because drink is sold there.

[Mr. Gavan Duffy.]

'There is a distinction there, and some distinction ought to be made, and I fancy the Minister will recognise some distinction ought to be made. I cordially agree with him when he spoke of putting a stop to the reprehensible practice of all-night drinking. I agree with him in endeavouring to stop a practice of that kind, but I believe that there ought to be a difference made between two very distinct categories, because I think we should not be committed to putting two distinct categories of case into one category without proper consideration.

I think everyone will agree that proper consideration is impossible if this Bill is rushed through before the Elections. I support the suggestion that Part 1 be proceeded with in order that fixed definite, and reasonable hours be made uniformly applicable to licensed premises and that Section 10, dealing with the invalidation of licences owing to non-renewal during the troubled times, be also proceeded with, as I think it is an excellent idea to remedy that injustice, but I think that the rest of the Bill can stop at the Second Reading, because the Minister will have asserted a useful principle by getting it that far.

Mr. A. BYRNE: I rise to support Part 1 of the Bill which fixes the opening hours from 9 a.m. to 9 30 p.m. I understand that an agreement on that portion of the Bill has been arrived at between the employers and the employees. There is a real desire on the part of the members of the licensed trade to help the Government in their efforts to keep the trade the cleanest possible in the country. I hope if there is to be any difference of opinion amongst members of the Dáil that they will all agree with Part 1, and let it go through. As regards Part 2, dealing with clubs, there are some very good clubs in the city of Dublin, which supply meals to their members, and the management of them is very careful, in fact it could not be better. I know that the Committees of some of these clubs have spent considerable sums of money on improving their premises, and I hope that, if we cannot agree to delete this clause relating to clubs, that, at all events, the members of the Committees which control them will be afforded an opportunity of interviewing the Minister. I hope if the hours are to be fixed for

clubs that they will be given at least one hour more after the ordinary closing time for houses in the licensed trade in the country. If one hour is granted it will do away with the cause of complaint which the Minister makes of some clubs in the country being drinking shops until two and three o'clock in the morning. I hope that the Minister and the authorities will do all in their power to crush out drinking dens of that type, but as regards the good class clubs, many of which we have in the city of Dublin, I hope he will, at least, consider the advisability of granting them one hour after the ordinary closing for licensed houses in the city.

With Deputy Gavan Duffy I wholeheartedly support Section 10 and I think it ought to be carried. With regard to a Sub-section in Part 3, dealing with spirit grocers, complaint has been made to me by spirit grocers that whilst they are anxious to do everything that is right they think that at least they ought to have an opportunity of consulting with the Minister on that clause, and if that can be arranged I believe a satisfactory agreement can be arrived at between the spirit grocers and the Minister. I congratulate the Minister on the attempt he has made to deal with this question in a satisfactory way. Part 1 of the Bill is such that all Deputies in the House will agree with, and I hope that it will be got through all its stages before the Dáil dissolves. The other portions of the Bill, with the exception of Section 10 which I think might be passed, could be dealt with in the new Dáil, especially the sections dealing with spirit grocers and with the regulations for clubs.

If the Minister thinks that the Section dealing with club regulations ought to be dealt with immediately I would ask him to consider the advisability of granting clubs at least one hour more for remaining open than the hour fixed for closing in ordinary licensed premises. I believe a proposal of that kind would meet with general acceptance in the House, and I may say that the clubs are most anxious to help the Government to see that there shall be no abuses on their premises and that there shall be nothing in the nature of a two o'clock in the morning trade. There is a general desire amongst the licensed trade that the opening hours for ordinary licensed

premises should be from 9 a.m. to 9.30 p.m.

Mr. McGARRY: Like most Deputies I am thoroughly in favour of Section 1. I desire to point out in this Section there is no mention made of Sunday closing. In connection with that I would like to point out that there are about 17 houses in what are known as the "added areas" which since the year 1900, although they pay rates and hold a seven-day licence, are prohibited from opening on Sundays. This Section 1 takes a certain number of hours off their ordinary week-day trading hours, and perpetuates the exclusions as regards Sunday opening under which they have been penalised at considerable loss since the year 1900. Though they hold a seven-day licence and pay the same duty as people who are allowed to open on Sundays they have been denied the right to open on Sundays from 1900 to 1906. In the latter year what was known as the Clancy Act was passed in the British House of Commons. It was thought at the time that publicans in the "added areas" could open on Sundays under that Act, but a case was brought into Court and it was decided that owing to a flaw in the drafting of the Act that the publicans had not the power to open on Sundays. As the decision in the case was against them they have been since obliged to keep closed on Sundays. I would ask the Minister to make some provisions in this Bill whereby these people would be allowed to open on Sundays, as it is a great hardship and wrong that while they are obliged to pay duty on a seven-day licence, they are still prohibited from opening on Sunday.

Mr. DOYLE: I agree with Deputies Johnson and Byrne in the views they have expressed on Section 1. As the Bill only came into the Deputies hands to-day, and as there are some contentious Clauses in it, I think with the exception of Part 1, which might be agreed to, that the remaining Clauses should be left over to the new Dáil. I do not see the necessity for rushing these contentious Clauses at the present time. The administration of the licensing laws ought to have improved considerably of late, in view of the fact that we have the Civic Guard in practically every town and village in the country.

I quite agree that there should be fixed hours for opening and closing. There will not be any contention about that part of the Bill, at least it seems to be the opinion of Deputies that there will not.

As regards the other portions of the Bill that are contentious—and some of them are very contentious—I say that no expression of opinion has been got from the people concerned in the matter—at least from country representatives—and there is no necessity to rush the remaining portions of the Bill through. We can deal with Part 1 of the Bill to-day if the Minister agrees.

Mr. HENNESSY: This Bill, I understand, is to regulate closing hours in Dublin City and County. That has been made pretty clear by the Deputies who have spoken. If it is necessary to regulate closing hours in Dublin and to pass legislation, if the licensed traders cannot agree to closing hours, surely that legislation ought not to be applied to all the other traders down through the country who do agree on a reasonable closing hour. The licensed traders in the country are restricted by four hours in this Bill and that is a very serious restriction. I think it would go a long way towards closing down many of the traders down through the country. That is my conviction about it. I have not had an opportunity of discussing the matter with the licensed trade in the South of Ireland or of getting the opinion of their Organisation on the matter. I do not know really what they require, because we only got this Bill this morning. But I support the other Deputies in the opinion that we ought to have an opportunity of consulting with them before we pass such a drastic measure as this. If we do restrict the traders' business by four hours a day, I think we ought to reduce their licence duty by 25 per cent. What is good for Dublin may be very bad for Cork, Waterford, Limerick and other places. Until we know exactly what those people require I do not think that we should pass this Bill. They are a large section of the community; they have vested interests in the country and they deserve the same consideration from the Dáil, as to the farmers, or any other section of the community.

Dr. WHITE: Like other Deputies, I think that the Minister deserves to be congratulated on this Bill, because I think it is a good, solid, Bill, and in the main it is for the benefit of the nation. Part I, which fixes the hours, is fair enough. Perhaps the question of the spirit grocery and club is contentious. I am against all-night drinking. At the same time I am not a Pussyfoot. I may have some original ideas as regards the licensed trade in Ireland. The inference to be drawn from Deputy Johnson's statement is that there was no other pleasure for our people except non-Pussyfootism. On the Continent they have cafes where people can go and get anything they like in the way of non-spiritous refreshments at practically any hour. That is a phase of the National life that might be considered later on. Perhaps it would be a complete revolution in the licensed trade. There was a point raised about methylated spirits, or "blow-hard" as it is known in my part of the country. I have some experience of it; I do not mean personal experience, but some years ago in Waterford there was a regular epidemic of drinking of methylated spirits. We did not then have the stable conditions that we now have in the country. We had to take the law into our own hands and we did adjust it to a certain extent. As regards the point about ether raised by Deputy Professor Magennis, they may indulge in that in Belfast, but I do not think that in Dublin or in the South they have attained to that refinement of vice. At the same time I think these are matters that ought to be embodied in the Bill. I think on the whole the Bill is a good one, and that it aims at the advancement of the nation. On that ground I support it.

Professor THRIFT: I do not know whether I am a Pussyfoot or not, but I have been a teetotaller all my life. Nevertheless I would like to join with those who urge the Minister not to press parts of this Bill which are not urgent. I quite agree with him in that part of his opening remarks in which he said there was a great need for limitation in regard to the sale of intoxicating liquors, limitations in the number of licensed houses and in the conditions under which they sell. I would whole-

heartedly support him in pressing as urgent certain parts of the Bill, but I think it would be regrettable if other parts did not get a fuller and more careful consideration than we can give in the limited time at our disposal. I refer in particular to the clause in reference to Clubs. Though I accept and agree with parts of the Minister's speech, I do not agree with him in that part in which I understood him to say that he considered that clubs were on the same level as licensed houses. They seem to me to be on quite a different footing.

Mr. O'HIGGINS: I said that I would like to hear the case for any difference in hours.

Professor THRIFT: I was about to say that I think they are on a different footing, and that that would at any rate partly establish a case for their hours of closing being made different from the hours of closing of licensed houses. I think they do come in as a kind of half-way house, if one may say so, between the private home and the licensed house. I think it might do more harm than good if we were to rush through without giving the Bill full consideration and without regarding from a proper point of view the case for clubs receiving special treatment. I notice, for instance, that in this Bill the canteen is allowed more time than will be allowed to licensed houses. It would be rather a curious situation if a Civic Guard could go into a canteen after 9.30 and refresh himself in the way which has been referred to and a member of a club could not do the same. I think Deputy Professor Magennis was quite right in his reference to the Clubs, particularly the Golf Clubs. Probably if we had sufficient time to consider the matter we could name some later hour for the Club than is named for the licensed house. The question of all-night sittings might, perhaps, arise, but I do not know that I am prepared to make any suggestion in that connection. I really think that it would be advisable if the Minister would give the Dáil sufficient time to consider any of these provisions that are not of immediate urgency.

Mr. P. HUGHES: I wish to make a few remarks on this Bill. While I agree with the main provisions of the measure,

there are some provisions which I believe could be amended and ought to be amended when the Committee Stage is reached. What is right for the City of Dublin does not in many cases suit the country districts. I would have no objection at all to any portion of this Bill if it were made applicable only to the Metropolitan area of Dublin. I am sure nobody else would have any objection to that either. But the closing and opening hours in the City of Dublin and the closing and opening hours in the country do not suit equally well. In the country you have fairs and markets and people living considerable distances out of the towns and they require different treatment from the city community. So far as the traders in Dublin are concerned I do not know exactly their views, but I am sure they have come to an agreement with their employees and perhaps, with the Ministry, as to the hours which should be adopted. As far as the concluding Section of the Bill is concerned I believe it does require a good deal of consideration. At the same time I do not think we should hang up the Bill. It may be possible to give a little more time to the clubs than to the ordinary licensed house. I do agree that Sections 10 and 11 should be put into operation immediately. The sale of methylated spirits is on the increase all over the country, and I think there is no man who would not be glad to see the greatest restrictions placed upon it. I am glad to see Clause 10, which deals with licences, which might be taken in some instances as having lapsed, included in the Bill. I am prepared to support the general principles of the Bill and I hope to get the amendments which I have indicated carried on the Committee Stage.

CATHAL O'SHANNON: I think Deputy White is to be congratulated on the originality, not of his ideas, but of his arguments. It certainly was original to find him supporting a Bill that makes the hours shorter, on the ground that on the Continent there is a much better system under which you can get drink at practically any time within reason.

Dr. WHITE: On a point of personal explanation, my idea is, perhaps, rather original. My idea is that if you have cafes where people can get non-spirituous

or other kinds of liquor, or coffee or tea, or whatever they want—it might be a bold experiment—it would, perhaps, ultimately tend to a steadying of the nation, and to restriction on the unbridled consumption of spirituous liquors.

CATHAL O'SHANNON: I quite agree with the Deputy that that is probably so, and that elsewhere, outside the English speaking countries, these things are done much better. But that cannot be brought about by legislation. There is general agreement in the Dáil that the Bill should not be rushed, and that most of the provisions, outside Part 1, should get a longer time for consideration. But I doubt if there is even urgent or desperate necessity for proceeding with Part 1. If there is, as we understand there is, agreement between the main bodies concerned with regard to the question of hours, what is there to prevent that voluntary agreement from being carried out for a month or six weeks or two months? Is it necessary for agreements, voluntarily arrived at by the various parties, to get the seal of law before they be carried out? If that is the position, it shows very bad intentions on the part of some one or other of the bodies to the voluntary agreement. Apart from that, there is objection, I think, to the other part of the Bill being taken now—even to going into Committee—because there is a difference of opinion on the question of Clubs and other questions like that. I do not agree with Deputy Hughes that it is very necessary and very urgent that the sale of methylated spirits should be dealt with immediately. I think there are already provisions in existence which can deal with the sale of those spirits. Certainly, on every part of the Bill, except the first part, there is general agreement that it should not be taken before the Dissolution. It would be well, I think, if the Minister could meet all those views and leave over the contentious part of the Bill. I do not think it is even necessary to rush the first part of it.

Mr. ALTON: I would like to join the number of Deputies who would like to see some change in the second part of the Bill. I am not very much of a club man myself, but I would like to see a distinction made between the club and the

[Mr. Alton.]

licensed house. I think there is a case for distinction. It has been pointed out already that there is a vast difference between an institution whose primary object is the sale and consumption of intoxicating liquor and an institution where the sale and consumption of intoxicating liquor is only incidental. In a decently-conducted club the sale of intoxicating liquor is a very small item. A club, to a certain number of our fellow-citizens, is a kind of home. Sometimes it may be a refuge. There are not many comforts or amenities left, and if you make harsh conditions about the hours of consumption of drink in clubs, you will remove one of the last of these comforts. I cannot conceive the Minister bringing in a Bill in which he will give permission to the Civic Guard to enter a private house on inspection after 9.30, and, as I said already, a club is in the nature of a private house to many men. It may be their misfortune, but it is so, and I think you should regard it in that light and do something to extend the hours during which drink can be consumed in decently-conducted clubs. I am not making an appeal for rich clubs in contradistinction to poor clubs. The club is the prerogative of every citizen, rich and poor, and, properly conducted, it should be permitted every comfort that is possible.

PADRAIG MAC UALGHAIRG: Níl agam le rádh ar an cheist seo acht cupla fochal. Bhi mé ag eisteacht le mo chairde annseo agus bhi an cainnt uilig ar an dtaobh amhain.

An Leas Cheann Comhairle took the Chair at this stage.

Mr. McGOLDRICK: I wish to say with regard to this Bill, that if any preference is to be given to a club over and beyond the ordinary licensed houses as they are supposed to be conducted in a regular way, I would be thoroughly opposed to it. I do not see that we have a right to make reservations in law in favour of any section of the community, and to drive into clubdom every person who might feel that it would be to his advantage to be able to get a drink at times when he could not get it in the ordinary way. I agree with another point, that I think it is not possible to have a uniform system with regard to legislation in this business as between

the larger cities and the villages and towns in rural areas. I think that legislation in the past has taken notice of the different circumstances that prevail in relation to rural villages and towns and the larger cities, and the same rules did not apply in past legislation regarding the hours of closing and opening, and other matters as well. It may be that it would be a terrible hardship in some cases where markets are held, some of them as early as six o'clock in the morning, and to which people come from long distances, to say that houses should not open till 9 a.m., because some of these markets are over before 7 o'clock, particularly in towns in the West, and to a certain extent fairs and markets have to take place early. It would be a very great hardship in that case to say that public houses should not open before 9 o'clock. I am in favour of the general principles of this Bill if it can be accommodated to the requirements, but I am not so much concerned with the vested interests of the trade as I am with the service to the community. I think that that is the main object, how the trade is to be managed that the community may get the service they are supposed to get, and that, at the same time, abuses may be kept down. Whatever this Bill may be, it is only a superficial affair and it must only be temporary in its operations, because if we, as a nation, have any interest which it is really important should be put under proper conditions, it is this important interest of the licensed trade. Before any attempt is made to put it upon a basis on which it could safely rest in the interests of the nation, in the interests of the people, and in the interests of the revenue that it so largely produces, a very intricate and very extensive inquiry must be made into all the aspects of this business and legislation that would deal with it in this way must be based upon information so received. This should be an inquiry made in the interests of the various elements, whether those engaged in the trade or those who use the publichouses now and again, and the question of the revenue collected. I think it is a poor system of collecting revenue and that we should discover a better one, but at present there is no other way of getting revenue to the same extent. It is unfortunate that the present system exists, and per-

haps will exist. Then there are so many intricacies with regard to the clause that deals with new licences—25 per cent. of increase in population in ten years will justify the granting of an application for a new licence. This must be surrounded by a great many safeguards if it is to be ratified and passed into law. In regard to the valuation of premises and structural arrangements, these matters need to be well safeguarded, and there is in addition, a stipulation that two other licences must be wiped out. There are certainly two anomalies, as the Minister himself has stated.

I think that these are the main things which I wish to refer to at the moment, as the representative of an area which has nothing in common with cities like Dublin and Cork. Nearly every town has a separate system of its own, and would claim a separate service, but at the same time I think some uniformity can be arranged. I accept the general principle as a temporary measure to meet and deal with evils that are rampant. I am thoroughly satisfied with the clause that deals with illicit distillation. It is a very important clause, and a very urgent one, but I am not so much concerned with the clause dealing with methylated spirits, an evil which in the area I come from we are not so conversant with. In the rural districts we know very little about it. These things are city abuses and will require city remedies. But the question of illicit distillation is a different one altogether, and is one which threatens very serious damage to the community as well as seriously interfering with the revenue of the country. There are drastic powers in the Public Safety Act to deal with that and the penalties are very severe. The penalties in the Bill with regard to the spirit grocer are very drastic, that on the first offence he may lose his licence, and on the second he must lose it. I do not know that these powers can be made so drastic. They seem to pertain too much to the desire to legislate off our own bat, without consulting the general interests of the community, and I think before we carry penalties as drastic as this we should take into account their effects upon the people who are represented in this case. I will support the Second Reading of the Bill as a temporary expedient, but only as a

temporary expedient, to meet the necessity as it exists at present.

Mr. O'HIGGINS: There has been so much agreement on the general principle of the Bill that I am a little curious to know what it is. It is very necessary that I should discover what it is, because Deputy McGoldrick has qualified his approval—"I am in favour," he says, "of the general principles of this Bill if they be accommodated to the requirements." Well, if I am to accommodate the general principles of this Bill to the requirements I must know what they are. Frankly, I do not know what they are. The Bill consists of a number of provisions which I considered necessary to deal with anomalies and abuses which exist in connection with the sale of intoxicating liquor, but there are a number of provisions. They scarcely hang together, and I do not know what the general principle of the Bill can be said to be unless it be that it is necessary to see that the sale of liquor is carried on decently and without abuse.

If that is the general principle, it is one that does not leave much room for disagreement, but in fact the tendency has been to discuss this Bill as if it were something vague and ethereal, and not to come down to bedrock. I know where the shoe is pinching; I know there is scarcely a Deputy in the Dáil who has any doubt about any Section except Part 2, which deals with clubs. If that is the difficulty and doubt, we should come out and say so. I had a high opinion of the intellect and integrity of this Assembly, but I do believe that we are not able to make up our minds as to the hours at which clubs should cease to sell drink to non-resident members. We have been urged to leave out all of this Bill except Section 1. "The other provisions are all fine, each in their way, but it would be much better that the next Parliament should consider them, and, therefore, throw overboard all the ballast and get Section 1 at all cost." I agree there is an anomaly which Section 1 is intended to redress, but I do not agree that Section 1 is of any greater importance than other Sections of the Bill and certainly from the angle of my Department, which is the angle of order and peace and decency of life in the country, Section 1, although it is im-

[Mr. O'Higgins.]

portant, is not even as important as certain other Sections of the Bill. I think on this matter of clubs we can find accommodation which would get over the qualms of Deputies, and their obvious nervousness to deal with the matter. I put down that provision, that they should cease to sell drink to non-resident members after the time that licensed premises close, largely with a view of hearing the case against it. It was scarcely put up, it was hinted at, but I think I can put up a better case against it than has been put by any Deputy; that whereas the licensed premises are open all day primarily for the sale of liquor, the club is a different matter where men who have been engaged all day at their particular business congregate in the evening. There is a case for that, but it is a question of degree. I do submit that any decent club, any club that does not exist simply and solely for the purpose of consuming alcoholic liquor, would be well satisfied with an hour's latitude after the licensed premises close. If the Deputy put up an amendment to that effect in the Committee Stage, I would be prepared to accept it. Now, there are clubs and clubs; there are clubs where it would be correct to say, as Professor Magennis said, that the sale of drink was an accident, and that it was not in any sense the object of the club, that the club was social, or cultural, with some link or association for the purpose of meeting together in a friendly way in the evening, and so on, and that they run a decent and respectable place. There are clubs that do not quite answer to that description, and it is not a hardship to any club to ask that it be closed definitely for the sale of drink at a reasonable hour in the evening, say, 10 o'clock or 10.30. But we should be able to agree as to what is thought a reasonable hour. There is no occasion for any of the timidity displayed with regard to it. Deputies circled round the Bill, and said that they agreed with the main principles, but one would have preferred to hear what they disagreed with. One would have preferred to hear whether they disagreed with the regulations in regard to the sale of methylated spirits, or with Section 7, which deals with certain offences for which licences are to be forfeited, if the holder of a licence

sells illicitly distilled spirits, or has possession of illicitly distilled spirits, or harbours, keeps, or conceals illicitly distilled spirits. Sub-section (2) of Section 7, which deals with the spirit grocer, and the conditions under which he would lose his licence is as just and as reasonable a Sub-section as there is in the Bill. This man gets his licence on definite conditions. The State gives him a licence that he will sell drink for consumption off the premises, and if he goes outside the terms of that licence, and in fact turns his place into a kind of illicit publichouse, and proceeds to sell drink otherwise than within the terms of his licence, there is a complete case for the withdrawal of that licence. Then, going round the Bill, there has been no objection to Section 10. Section 9 Deputy McGoldrick misunderstood. Licences could be granted on condition that it could be shown that one's existing licence had lapsed or disappeared. This, so far from facilitating the granting of licences, is an additional restriction, that in addition to the new licence two lapsed licences must be shown, and the population increase as between one census and another is reasonably fixed at 25 per cent., but it seems to me that if we were quite frank, if we did not simply get away from the sore spot, if we faced up to this question of clubs and discussed it in a reasonable way, it would not be impossible to find substantial agreement as to the hours at which they should close. I am aware that there is a sensitiveness because of the time. Deputies throughout the Session are content to represent their constituencies broadly, and to carry out in a broad and general way the wishes of their constituents. That is adequate, but coming near the *dies irae* they are more inclined to consider the individual constituent than they are normally throughout the greater part of the Session. It is felt, in dealing with this question of clubs, that one may come up against the views and wishes of individual constituents who are club members. But I think no decent member of a club, and no decent club will, put up a case that these clubs ought to be all-night drinking shops for non-resident members. They will surely agree that there ought to be a limit. I would suggest that a reasonable limit would be 10.30, an hour after the time

at which ordinary licensed premises close. If we could get agreement on that, I see no reason why the Bill should not be considered as it stands.

Mr JOHNSON: Considered, yes.

Mr. O'HIGGINS: I want to put up this. There has been talk about hasty legislation. I have not brought any Bill before the Dáil which got more Departmental scrutiny than this Bill, and concerning which more opinions were asked. There is not a State Solicitor or District Justice, or Civic Guard Superintendent in the country, but was asked to comment in detail on the Bill, and when a new recommendation or something out of the ordinary came up from any quarter that was sent round for their opinion, and a good deal of time was given departmentally to this Bill, so when one speaks of hasty legislation it is not in the sense that there was any rush in the preparation of the Bill departmentally, because the Bill has been practically under the consideration of my Department for the last five or six months.

This Bill has had more careful scrutiny given to it and there have been more opinions asked in connection with its provisions than has been the case in relation to any other Bill that I have been responsible for. I would like this Bill to go into Committee as it stands, so that as we take it Section by Section Deputies could say what are the definite things they disagree with in it. There is nothing very technical or very profound about it. There is, I am sure, general agreement, for instance, on Section 1, that it is proper to try and check the sale of methylated spirits, and to try and ensure that this spirit will not be sold for consumption as drink. Sections 9 and 10 are, I think, non-contentious, and Section 7 could at least be discussed. If any Deputy holds the view that a licensed person ought not to lose his licence for selling poteen or for keeping it or harbouring it on his premises then that view could be discussed. Then, as regards the Section dealing with doubling the fines, that was considered reasonable by representatives of the trade itself. The real part that needs discussion is Part II and I think we could discuss that in a reasonable way and let Deputies state their views about it. I would like very much

that the Bill with all its 12 Clauses would go into Committee. I am prepared, if pressed, to throw out ballast and to leave out contentious Sections, but I think there is no Section in the Bill on which agreement could not be arrived at, and I think that all the Sections will be useful if carried. I think as regards the suggestion about clubs, that if an hour extra were conceded there might be general agreement in putting that Section through.

Mr. JOHNSON: I may be out of order, but I want to put this to the Minister: He has asked that the Bill should be considered, and that we should go into Committee on the whole Bill. I for one am quite prepared to allow the Bill to go into Committee if he on his part will allow us to have time to consider it. Let me point out a practical difficulty that one is in. We saw this Bill for the first time at 11 o'clock last night, and some Deputies did not receive copies of it until this morning. I find in reading through this Bill references to the Spirits (Ireland) Act, 1831, and to the Revenue Act of 1889, and to several other Acts. It is very true, no doubt, that the Bill has had ample consideration from the Minister's Department, and that those connected with the Department know all about these Acts that I have referred to, but we do not know about them, and yet we are asked to take the Minister's word that it is a perfect Bill, and that it satisfies all requirements. We are asked, in fact, to take the responsibility off his shoulders, and that, I submit is not proper. If the Minister will say that there is a possibility of having the Bill considered, and of giving us time for the drawing up of amendments, and of seeing how far agreement can be reached on details, then, I for one, am quite prepared to support the main clauses of the Bill, but I am confident that some of them will require to be amended. These amendments will have to be considered, and I suggest it is asking too much for a Bill of this kind, requiring consideration, not only by the Dáil, but by the Dáil after consultation with the people interested, to be rushed through in this hurried manner.

The submission I make is not unreasonable. Deputy McGoldrick, rather late in the day, I think, comes forward and

[Mr. Johnson].

says that Bills of this kind, and important Bills of any kind, ought to be given very careful consideration. I think I can say that the Dáil generally has shown an interest in this Bill which it has not in much more important Bills, Bills requiring much more important consideration than this one. Deputies are quite eager to discuss this Bill, which is of small moment, comparatively, but they have allowed three months' legislation to go through within the last three or four days without a word. I suggest that we are now asked to do too much. It is not a mere matter of difference of opinion about a clause or a section. What I object to is the principle of rushing a Bill of this kind through the legislature without ample consideration. There is no plea put forward that it is of vital urgency. That plea is not put forward, that the safety of the State is in danger if this Bill is not passed. There is no grave complaint about the regulations as to hours, or that there has been a tremendous increase within the last week in the sale of methylated spirits, or that the clubs have degenerated within the last fortnight to the stage at which they must be closed up at 10.30 p.m. These arguments are not put forward, and we are not told that this is a matter of extreme urgency. I think that even the hours question has not been proved to be a matter of urgency, but inasmuch as there is general agreement on that question not only here, but outside amongst the people interested, that matter, I think, without any prejudice to any principle in the Bill, could possibly be accepted and passed, but the general provisions of the Bill are being put to us to be passed at top speed without their having any possibility of consideration, either by the Dáil or the country.

Mr. HENNESSY: I desire to say——

AN LEAS-CHEANN COMHAIRLE:

The Deputy is not in order in speaking just now on this question.

Professor MAGENNIS: No; it is only certain Deputies are in order.

Mr. O'HIGGINS: Parts 1 and 2 really deal with hours. Part 1 deals with the hours during which drink may be sold on licensed premises, and Part 2 deals with

the hours during which drink may be sold in Clubs. If needs be I am prepared to cut the Bill and to bring in Parts 1 and 2 as a Bill. There are no technical references in Part 2. No Acts would need to be looked up in Reference Libraries or elsewhere. It is a straight clear question, and if Deputies are agreeable we could limit the Bill to these two Sections, 1 and 2, and go into Committee.

Mr. FITZGIBBON: It appears to me that it would be more in order if we were to give the Bill a Second Reading, and when that is passed a Motion could be made to suspend the Standing Orders to go into Committee and pass Section 1 or any other Section that may be thought fit. It seems to me that this discussion appears to be rather out of order.

AN LEAS-CHEANN COMHAIRLE:

A moment or two ago a Deputy made a remark that only certain Deputies are in order in this Dáil. I allowed Deputy Johnson to speak because I thought he was about to make a suggestion which would help to facilitate the business, and it was for that reason that I allowed him to speak, and if Deputy Magennis got up to make a suggestion of the same kind I would also have allowed him to speak. While I occupy the chair I always try to be impartial to Deputies in all parts of the House, and I think the observation that was made by the Deputy should not have been made.

Mr. O'HIGGINS: Deputy Johnson made some comments on the proposal that I put forward to pass the Bill with Parts 1 and 2 and to cut out the remaining portions of it. The real straight question that the Dáil ought to have the sense and the courage to decide is if it is right and proper that we should deal with the hours for opening of licensed premises, it is right and proper that we should bring the hours for the consumption and for the sale of drink in clubs into some kind of uniformity, and with that view I would like to go on with at least these two parts of the Bill.

Mr. DARREL FIGGIS: On the Second Reading I suggested that the Bill might be confined to Part I. I did

so because I had no hesitancy with regard to the other points to which the Minister confined his attention when replying generally to the debate. I think so far as Part II., dealing with Clubs, is concerned that his attitude is a reasonable one, and that we should be prepared to state, and to give members an opportunity of stating, what exactly are their feelings on the matter. My contention was, with regard to the other Sections, that they should not be dealt with, but that if they are to be dealt with they would require to be dealt with far more fully than the Dáil has time to give them at the moment.

Question put: "That this Bill be now read a second time."

Agreed.

Mr. O'HIGGINS: If we could have agreement on taking parts I and II, I would be inclined to ask for the suspension of the Standing Orders to enable the Committee Stage to be taken.

Mr. DARRELL FIGGIS: We are in order, I think, to discuss this question of procedure, and I submit it is a reasonable subject for discussion. So far as I am concerned I was one of those who advocated that all the other parts of the Bill with the exception of Part I should be jettisoned. If the Minister feels that Part II ought to be added to the Bill I am agreeable to that course. I think as regards the question of clubs that as between *bona fide*, social or cultural clubs as the case may be, and those that are not *bona fide* clubs but are merely clubs as a sort of justification for all-night drinking shops, as the Minister termed them. A distinction should be made, and that the Section of the Bill dealing with clubs would require rather more careful consideration than we are in a position to give to the Bill if we are to go straight into Committee now for that purpose.

Mr. O'HIGGINS: I beg to move the suspension of the Standing Orders so that the Committee Stage of this Bill may be taken.

The PRESIDENT: I second the motion. I take it the Minister's intention is to take the Committee Stage of the Bill and that matters which are regarded as contentious or objectionable will not be pressed. As far as he is con-

cerned his view is to get those clauses which are not contentious passed, if the Dáil should see fit to do so. I do not think the Minister intends to take advantage of the facilities that would be afforded with regard to the suspension of the Standing Orders, and in any case if it be desired to put the Bill through its remaining stages a further suspension of the Standing Orders will be necessary so that Deputies who might have scruples on that point would have that further safeguard.

Mr. JOHNSON: I am quite agreeable that the House should go into Committee on the consideration of this Bill.

Question put: "That the Standing Orders be suspended so that the Intoxicating Liquor Bill, 1923, may be taken in Committee."

Question put and agreed to.

Mr. JOHNSON: My feeling is that we should go into Committee without formally suspending the Standing Orders. This matter of suspending the Standing Orders is getting too much of a habit.

[THE DAIL IN COMMITTEE.]

SECTION 1.

(1) It shall not be lawful for any person to sell or expose for sale any intoxicating liquor or to open any premises for the sale of intoxicating liquors on any day not being a Sunday, Good Friday, or Christmas Day before the hour of nine o'clock in the morning or after the hour of half-past nine o'clock in the evening. This sub-section shall not apply to any licensed person who is the owner or lessee of a theatre, music hall, or other place of public amusement.

(2) It shall not be lawful for any person to sell or expose for sale any intoxicating liquor in any theatre, music hall, or other place of public amusement at any time being more than thirty minutes before the commencement of a performance or entertainment or at any time being more than thirty minutes after the end of a performance or entertainment or at any time after ten o'clock in the night.

Mr. O'HIGGINS: I beg to move that Section 1 stand part of the Bill.

Mr. HENNESSY: I beg to move the following amendment to Section 1: "That Sub-section (2) of Section 1 shall

[Mr. Hennessy.] not apply to any area outside the Dublin Metropolitan Police Area." I think the Deputies who represent country constituencies and who have already spoken on this Bill made it quite plain that they had not an opportunity of consulting the trade in their respective constituencies with regard to this measure. Hence I do not think it would be fair to rush this particular Section through the Dáil before Deputies who represent country constituencies are afforded an opportunity of consulting their constituents. Traders in the country form a considerable section of the community, and in licensing duties and in other respects, they contribute large sums to the revenue of the State. For that reason, I think their representatives in this Dáil should be afforded an opportunity of consulting them before this Section is passed. The requirements of the licensed traders of Dublin and their attitude towards this measure were stated here to-day by the Deputies from Dublin City and County. The traders in the country should be afforded a similar opportunity. The amendment I submit is a reasonable one, and I ask the Minister to accept it.

Mr. O'HIGGINS: Deputy Hennessy has made his protest. His licensed constituents will never be able to shake their gory locks at him and say that it was he did it. But the amendment is not acceptable. It is highly advisable to have uniformity with regard to the closing hours, and to end the anomaly of people stepping out of a licensed establishment here and crossing the road to one where they can remain longer. The case for any discrimination in favour of the country is not a strong one. They really gain on one night of the week; they gain on Saturday. Where they close now at 9 p.m., they will gain half an hour on that night.

Mr. CORISH: In view of the fact that the rural areas in Ireland keep old time, does not that mean that they shut at 8.30 p.m.

An Ceann Comhairle resumed the Chair at this stage.

Mr. DAVIN: Deputy Hennessy in moving his amendment stated that he had no opportunity of consulting his licensed constituents. If Bills are going

to be dished up to us in the way they are being dished up, none of us will have an opportunity of consulting our constituents, if such a thing is necessary. I would like to ask the Minister for Home Affairs if he has consulted any representative of the licensed trade. It would be interesting to know if he has met them and what the opinion of the spokesmen of the trade has been on this particular matter. I do not think that it is necessary or wise for Deputies to send wires to sections of their constituents on every subject that is brought before this Dáil. We are elected here to form the best judgments we can, and whenever the occasion arises to decide for or against a certain matter. I certainly do not consider it desirable, so far as I am concerned, in voting on a Bill to say that I had no opportunity of discussing the matter, especially in a Bill of this kind that affects every section of the community. If, for instance, there was a strike on, over the question of wages, I do not know whether Deputy Hennessy would put up the arguments that he has put up on this occasion. I think it is unfair to put up that argument. The reason I rose was to ascertain from the Minister whether he has seen people who could speak on behalf of the whole licensed trade of this country, and if so what were their opinions with regard to the matter.

The PRESIDENT: I would like to point out that when one speaks of one's constituents, it must be borne in mind that one is not sent into an Assembly such as this to represent merely a section of the community. One has got to consider, in relation to matters that are placed before the Oireachtas, all the aspects of the case, and how far it may be possible to conform to the interests of the people in the consideration of legislation. The first question that arises in connection with the matter under discussion is what are the advantages to be derived, and what are the forces behind the case that is made for a very slight reduction of the hours in this case. Those of the public who have some knowledge of the present law with regard to licensed hours, know that from seven o'clock in the morning until 11 o'clock at night are hours that mean in the case of employees, employment for very long hours. It may be alleged that there are

regulations with regard to hours and so on, but we know that no organisation of police forces, or no organisation of inspection that could possibly be inaugurated could deal with all the abuses that might take place with regard to such regulations as may be made. One of the first cases that is made for a cutting-down of the hours is to relieve a certain section of the community that may possibly be overworked, and which in the past, as everybody knows, was very much overworked—persons engaged in this particular trade. Deputies ought to bear that in mind. I think there was scarcely any employment that called so much upon physique of the person engaged in it as this particular one. Regulation of hours will, at least, limit the possibility of further strain on the employees engaged in this trade. The second question is whether or not there is a general consensus of opinion in favour of this. As far as I know, here in the city of Dublin, there is no real objection to the hours that have been in operation for some years. Recently they have been departed from and extended. There is no great case for the extension. There was no volume of opinion in Dublin, as far as I know, in favour of it—in favour of differentiating between the people of the Metropolis and the rest of the country, no demand that the people of the Metropolis should be restricted so far as any time they might spend in these institutions as compared with the rest of the country. In any case, I believe that the principal business that is transacted in the country is transacted on Saturday, and we are giving an extension of half an hour in that case. I do not think the Deputy has put up a case to extend the hours or to give advantages to his constituents that are denied to the Metropolis.

Mr. HENNESSY: The present hours are I understand from 7 to 11, outside Borough areas. It is proposed under this Bill to reduce the hours by 4 hours per day, or 24 hours in the week, as these people close down on Sundays. As I pointed out previously, they are paying very heavy licence duty. They do very little business during the day. It is only in the evening, for an hour or two, that they do any business, and the reason I put forward my amendment is that this reduction of hours will hit them very severely, and that in many cases

they must close their doors. I do not stand for abuses or for any illegitimate trading. I am with the Minister there, and I am not speaking for electioneering purposes. I hope I shall convince the Minister on that point. Perhaps, I might retort that the Minister himself standing for a Dublin constituency might be thinking of electioneering. The Minister has not stated that he has consulted the South of Ireland traders on this point. If he has, and if they are agreeable, I will withdraw my amendment. As was stated here a moment ago, people going to fairs and markets require refreshments in the morning before 9 o'clock. Anybody who has had any experience of the country knows that light refreshments are necessary in the morning, and that 10 o'clock at night is not an unreasonable hour to keep a house open. The licensed traders generally are not men who abuse their licences. If there is a very small section of them who commit abuses that is no reason why the whole body of the vintners should be come down upon. I must press my amendment.

Mr. JOHNSON: I would like to ask the Minister if he would inform me what are the present regulations in the country regarding hours?

Mr. O'HIGGINS: The present hours are:—Saturdays, Dublin, Belfast, Cork, Limerick, Waterford—7 a.m. to 10 p.m.; other towns with a population over 5,000, 7 a.m. to 10 p.m.; all other places 7 a.m. to 9 p.m. We need not bother about Sunday, Christmas Day or Good Friday, on which there are special hours. The ordinary week day hours are: Dublin, Belfast, Cork, Limerick, Waterford—7 a.m. to 11 p.m.; other towns with a population over 5,000 7 a.m. to 11 p.m.; all other places 7 a.m. to 10 p.m.

Mr. DAVIN: I asked the Minister a question which he has not answered. If he is in a position to answer it I would like him to do so. I would like him to say whether or not he has seen representatives of the licensed trade and what is their considered opinion on this matter. I am quite prepared to accept the considered opinion and judgment of those who speak on behalf of the licensed traders and who may enter into an agreement with their employees with

[Mr. Davin.] regard to the hours. I am particularly anxious that in every area throughout the country, including the Dublin area, public houses in the same town or district, or even throughout the entire country, should open and close at the same time. No matter what one might like to think to the contrary, we know perfectly well that the people who keep their houses open after the regular hours—the hours agreed upon between those who employ assistants and their employees—are the people who sell poteen and bad drink and who in every way defraud the people who pay high prices for the liquor they consume. I want all publicans to be put on an equal footing, so that no man will be able to take advantage of the person next door or to sell bad liquor or open during irregular hours. That is why I would like to know from the Minister what is the considered opinion of those who speak on behalf of the trade, not alone in Dublin but throughout the country.

Mr. O'HIGGINS: There were interviews between representatives of the trade and officials of my department and the impression I got was that they were satisfied with those hours and substantially satisfied with the provisions of the Bill. They had no serious objection to urge to any of the provisions of the Bill. I take it these men were representatives of the trade interests not merely in the city of Dublin but the trade interests throughout the country, and I accepted their view as such. The necessity for uniform closing hours is obvious. If you have a certain hour here in Dublin and a different hour for the country you will have the anomaly of people changing out of one house into another which happens to be across the border. I think twelve and a half hours in the day is long enough for the sale of liquor.

Mr. LYONS: I was of the opinion that the first Bill to be introduced here for restricting the hours of licensed traders would include a clause to reduce the cost of liquor or the duty which is going to the Exchequer of the Saorstát, so that customers could obtain the liquor at a cheaper rate. According to Section 1 the hour at which public houses will open in the morning is 9 o'clock. We must remember that in country towns people

have to travel from 3 and 4 o'clock in the morning to markets and fairs in the towns and sometimes they reach these towns in the winter time at 8 o'clock in the morning. Surely those people are entitled to a little refreshment in order to warm up their systems and fit them for the business transactions of the day. I do not disagree with the fixing of the hour for closing at 9.30 p.m. I think a public house which closes at 9.30 p.m. has had a long enough day. The extra half-hour which is being given will cater for such people as I represent here, and I can assure the Dáil that the workers of Westmeath and Longford are not people upon whom the public house acts as a magnet. As I have said, I am quite satisfied with the closing hour, but I would urge the Minister to fix the opening hour at, say, 8 o'clock and thus give an opportunity to the traders in the towns where fairs and markets are held to provide necessary refreshment for the people who come to these fairs and markets. In the country the same person who sells intoxicating drink also sells provisions, and in some cases you will find the publican engaged in the drapery and boot trades as well, while in addition he is in a position to book your passage to the United States. I would certainly agree that the Minister should bring in a Bill to the effect that the licensed trader should not—

AN CEANN COMHAIRLE: That is another matter altogether.

Mr. LYONS: I would like to impress upon the Minister the desirability of having the houses in the towns open before 9 o'clock. In many cases working people may have their accounts in licensed houses and if something is forgotten overnight the worker may have to go to work next morning without his breakfast if the shops are closed until 9 o'clock. Then we have a certain number of people in Ireland who cannot go to work in the morning until they get a drink. If you close the public houses until 9 o'clock in the morning there will be officials and clerks and traders in other businesses and artisans and workers of different descriptions who will be late for their work because they will have to wait for the public houses to open in order that they may get a drink. I was

pleased to hear the Minister adopting the labour attitude and saying that these people working behind bars are working very long hours. I presume this Bill is introduced in order that the President may prove that he as one man is going to give them shorter hours. That may have something to do with it, but I do not think it has. I think the Minister, with his usual good humour, mentioned that simply to try to draw the opposition to vote with him. I ask the Minister to extend the opening hour by an hour, which would be appreciated. Since we have got the Civic Guard I am happy to say that on Sundays in towns where previously the public house doors were open they are now closed. He has his men and I think they are doing their work.

AN CEANN COMHAIRLE: I should like to remind Deputies generally that when we reach 4 o'clock we automatically adjourn until 3 o'clock on Tuesday.

The PRESIDENT: Without reporting progress?

AN CEANN COMHAIRLE: Without reporting anything.

The PRESIDENT: I would be agreeable to sit on for an hour longer.

Mr. JOHNSON: Give us time to get something to eat.

The PRESIDENT: I propose that we sit until 5 o'clock. Some of us have not made the acquaintance of the table since early this morning, and perhaps it would shorten speeches if it were known that we would not leave this until 5 o'clock. I think there is a good deal of agreement about the principle of the Bill, and I hope to be able to get it through.

AN CEANN COMHAIRLE: Is it proposed to get through the Committee Stage this evening before 5 o'clock? What about the other stages? We should be clear as to what we are to do.

Mr. JOHNSON: I suggest that it is impossible to get through the Bill this evening unless we confine it to Sections 1 and 2. As far as I am concerned, the only agreement I can make is that the question of hours can be altered as laid down here.

Mr. O'HIGGINS: With no reference to closing hours for clubs at all?

Mr. JOHNSON: If you have that in Section 1 I do not mind. So far as I am concerned I do not mind making that 9.30, but I think there is more than that, a good deal more than that, in the question of the clubs, and my objection is that it cannot be considered this evening.

AN CEANN COMHAIRLE: What if we take the first five Sections?

Mr. GAVAN DUFFY: That is a very fair suggestion.

Mr. JOHNSON: Yes, I am prepared to agree to that.

AN CEANN COMHAIRLE: And put through the remaining stages when they have been dealt with in Committee?

Mr. JOHNSON: We will see how we get on.

The PRESIDENT: If that is agreed I think that we had better sit for another hour.

Agreed.

Mr. DARRELL FIGGIS: On a point of order in that regard; if it will happen that the first five Sections are not completed, are we to go on until 5 o'clock, or such time as the five Sections require to be dealt with, and if it should happen that these five Sections should be got through in a half an hour, is it the intention to go on with the Judiciary Bill?

AN CEANN COMHAIRLE: My interpretation of the suggestion is that we should proceed no further than the first five sections of the Bill, and if we got these finished in time we might be able to finish the Bill. If not, we cannot possibly finish either the Committee or any other Stage, but if we do finish the Bill, by any extraordinary chance, in half an hour, I take it the President does not intend proceeding with any further business.

The PRESIDENT: No, Sir, but there is an uncontentious motion which I wish to move.

Mr. GAVAN DUFFY: I would suggest that, in any case, Section 13 should have to be put in as well as the first five. It is non-contentious, it is to

[Mr. Gavan Duffy.]
remedy an injustice, and it would probably go through without any opposition. I suggest that it be included.

AN CEANN COMHAIRLE: The understanding is the first five Sections so far. Section 13 is essential. The motion is: "That Section 1 stand part of the Bill."

SECTION 1. SUB-SECTION (1.)

It shall not be lawful for any person to sell or expose for sale any intoxicating liquor or to open any premises for the sale of intoxicating liquor on any day not being a Sunday, Good Friday, or Christmas Day before the hour of nine o'clock in the morning or after the hour of half-past nine o'clock in the evening. This sub-section shall not apply to any licensed person who is the owner or lessee of a theatre, music hall, or other place of public amusement.

Mr. JOHNSON: I drew attention to what I think was a lapse in line 20, and I am in a difficulty owing to inability to make inquiries as to how best to amend it. My proposal is to delete the words "who is the owner or lessee" and to insert "in respect of," so that the sub-section would read, "This sub-section shall not apply to any licensed person in respect of a theatre, music hall or other place of public amusement," but I seem to remember that there is a difference between the British licensing laws and the Irish, and the Minister said that this was taken from the British licensing laws. I am not sure whether or not it is a fact that in Britain it is the person who is licensed and in Ireland it is the place. A person is licensed in respect of a place and that makes a difference in the phraseology here. Therefore I will move, subject to whatever correction the Minister will make, to delete the words "who is the owner or lessee" and to substitute, after "person," "in respect of" the theatre, music hall or other place of amusement.

Mr. O'HIGGINS: If the Deputy would take me as admitting the need for rectification there, I could bring up a form of words later.

Amendment, by leave, withdrawn.

Motion made, and question put:
"That Section 1 stand part of the Bill."
Agreed.

SECTION 2.

Whenever a District Justice is satisfied on the application of a Superintendent or an Inspector of the Garda Síochána that grave abuses prejudicial to peace and order have arisen and are actually taking place in any town or village and that in order to facilitate the suppression of such abuses it is expedient that the sale of intoxicating liquor in such town or village should immediately cease, the District Justice may order the immediate closing for the remainder of that day of all premises licensed for the sale of intoxicating liquor in that town or village.

Mr. GAVAN DUFFY: This Section provides a drastic remedy for closing all the public houses in places where there is liable to be an abuse by the sale of intoxicating liquor. I do not object to that, provided that the power is exercised with proper control. I suggest that the least that can be done is to put in an amendment after the words "Ghárdá Síochána," the words "supported by his sworn statement." The effect of that would be that the local police superintendent or inspector could only get this closing order from the District Justice on swearing an affidavit, or swearing verbally, that the circumstances are as stated in this Section.

Mr. O'HIGGINS: I wonder would the Deputy accept as a reasonable compromise the insertion of the word "written" before "application"?

Mr. GAVAN DUFFY: I do not think that quite meets my point. I agree, of course, that a written application is better than an oral one. I believe that a police inspector if he cannot swear an affidavit, if there be great urgency, should at least have to make a statement on oath. It is not asking very much to go before a District Justice and make on oath his reasons for that application. It need not necessarily be written. I think that is a better check, even though it is a verbal statement on oath, rather than a written application.

Mr. O'HIGGINS: I am not, in a general way, enamoured of oaths. For

membership of the force itself the oath has been dispensed with and members are simply asked to make a declaration. I think it is a reasonable offer to insert before application "written," so that the person making the application to the District Justice will have to write out in a formal way his reasons for making the application, and that will be something on record at any rate, but it seems an absurd thing that a police superintendent, a responsible official of that kind, should have to go in and take an oath before a District Justice in order to tell him that there was such a state of affairs in the town and that it was necessary for the preservation of peace that the public houses should be closed for a couple of hours.

Mr. GAVAN DUFFY: I do not want to press the matter unduly, but it may be more than for a couple of hours, and a man may act in a panic, and on the spur of the moment unreasonably.

Mr. O'HIGGINS: It would perhaps be more than a couple of hours. The suggestions I had intended to make was to insert for a day, or for the remainder of the day or such shorter period as he might deem adequate.

AN CEANN COMHAIRLE: Will Deputy Gavan Duffy accept the amendment?

Mr. GAVAN DUFFY: Yes.

AN CEANN COMHAIRLE: The amendment is: "In Section 2, line 30, before the word 'application' to insert the word 'written.'"

Agreed.

Mr. DAVIN: I speak subject to correction when I assume that in every Division there is a Superintendent of the Civic Guard. This new force is admirable in many ways, still I think its youth would warrant that in a matter of this kind the responsibility should be placed on the highest available officer, who, I take it, would be the Superintendent. The Superintendent, I assume, is in close touch with all the Civic Guard stations in his area. That being so, I think the responsibility should be undertaken by him and not transferred to anybody else. I ask the Minister if he would accept an amendment to omit the words "or inspector"?

Mr. O'HIGGINS: I do not think it is reasonable. The rank of Superintendent in the Civic Guard at present would correspond in a general way to that of a County Inspector in the past, and the inspector to the lower rank of a District Inspector, but it is a question that such a situation as that that the Sub-section is intended to deal with, might occur in any town other than the county town, where the Superintendent would be resident, and generally stationed, and he ought to be able to entrust and delegate a power of that kind to the lower officer, an Inspector. Otherwise it would mean that at any event of any importance occurring at all within the county it would be absolutely necessary that the Superintendent himself should be present. The rank of Inspector in the Civic Guard presupposes a certain common sense and responsibility that is adequate for dealing with a matter of this kind, particularly when you consider that after he has come to a certain conclusion, he has got to satisfy the District Justice of the state of affairs that prevails, and showing the necessity that exists for that. I think the Deputy ought not to press that.

Mr. DAVIN: I withdraw.

AN CEANN COMHAIRLE: The amendment by the Minister for Home Affairs is: "To insert after the word 'day' on the second last line of the Section, line 32, 'the remainder of that day, or such shorter period as he may deem adequate.'"

Agreed.

Mr. FITZGIBBON: I want to suggest an amendment to line 33. The wording of Sub-section 2 seems to me to be open to considerable doubt. "Whenever a District Justice is satisfied on the written application that grave abuses prejudicial to peace and order have arisen and are actually taking place." I do not myself understand what "grave abuses prejudicial to peace and order" that may be actually taking place may mean. The expression is one that I am not familiar with in any Act dealing with a breach of the licensing laws, and it is very ambiguous. I suggest that that should be altered to "whenever the District Justice is satisfied on the written application," and so on, "that in the interests of the preservation of public peace and

[Mr. Fitzgibbon.]

order it is inexpedient that the sale of intoxicating liquor should take place" you have got to satisfy a District Justice that it is essential that public houses should be closed in certain places for a particular period. That can only be where there are grave dangers to public peace and order. I think it would be better to use some expression of that kind, rather than to put it upon the Superintendent or Inspector to say there are grave abuses, and not saying what they are, or to describe something or other which may or may not be the grave abuses that are actually taking place.

Surely what is contemplated in this Section is that where some mass meeting of people of a tumultuous character is advertised to take place that the police authorities can come to the District Justice and get an order to close the public houses before the people should actually be in the public streets. It does seem that some expression such as I suggest should be put into the clause, for instance, some words like this: "That in the interest of the preservation of public peace and order it is expedient that the sale of intoxicating liquor should be prohibited." I will move as an amendment to substitute these words instead of the words in lines 32, 33 and 34.

Mr. O'HIGGINS: I will be prepared to accept that.

Mr. GAVAN DUFFY: That is much wider than was originally proposed. Written application made by the police to the effect that there was a riot going on is not nearly so wide as what is now proposed, because what is now proposed enables you to give the policeman power, without any sworn statement, to get the public houses closed down generally because of something he thinks may happen. That is a totally different proposition and I for one would be against it.

Mr. JOHNSON: I agree with Deputy Gavan Duffy that Deputy FitzGibbon's amendment, while perhaps more in accord with practice in legal departments, does very greatly increase the power of the District Justice and does very greatly widen the intention of this Section. He has not to wait until there is reason for closing down the public houses because of certain abuses that are in being, but

he can, as a kind of precautionary measure, say that these houses must be closed down. I am not sure that they have not got such power to-day. They have certainly exercised that authority. Whether they have legal power or not I am not sure, but it is done. I think the Section as it stands, or at least the intention of the Section as it stands, is better in this Bill at any rate. Whatever may be done under future licensing laws it is better to confine the power of closing the public houses to the time when the trouble has actually begun and not as a preparation for trouble which may come. It really gives power that has not been sought for in the negotiations leading up to this Bill, and I suggest that the powers of the Bill should not be widened at this stage.

AN CEANN COMHAIRLE: The amendment is to delete all the words from the end of line 31 to the word "abuse," inclusive, in line 34, and to substitute the words "in the interest of public peace and order" so that the Section would read: "whenever a District Justice is satisfied on the application of a Superintendent or an Inspector of the Garda Síochána that in the interest of public peace and order it is expedient that the sale of intoxicating liquor in such town or village should immediately cease the District Justice may order the immediate closing for the remainder of that day of all premises licensed for the sale of intoxicating liquor in that town or village."

Mr. GAVAN DUFFY: There are existing provisions dealing with that matter and I do not think we should be asked to pass a totally different proposal without knowing what the other provisions are. Presumably there is no need for a change in the matter and the Minister's proposal is quite a different one from that of Deputy FitzGibbon.

Mr. FITZGIBBON: If there are existing provisions which enable Justices to close publichouses in anticipation of a riot, it would necessarily follow that the same powers would exist when the riot actually took place. I cannot conceive that there is any legislation that enables public houses to be closed before a riot that does not exist to enable them to be closed when the riot takes place.

I am under the impression that the draftsman in framing this Bill was himself under the impression that he was giving the District Justices power that the other Magistrates had of closing public houses when there was trouble on, and assuming, as I do, from the way the Section is drafted, it is only for the remainder of the day that the closing can take place, that it barely confines the possibility of shutting public houses down to a state of affairs in which it would be absolutely essential that they should be shut down.

Mr. O'HIGGINS: The existing power, I am advised, is that in the case of a fully fledged riot the District Justice has the power given him by the District Justices' Act, which formally vested in the Resident Magistrate, that he might close up public houses in a town or village. We drafted this Section with a view to dealing with a state of affairs not so intense as a fully fledged riot. There might be, in a particular town, excessive drinking on a very large scale constituting a problem overtaking the resources of the police situation in that town, and with every possibility—I will not say of riot—but of possible assaults throughout the town in a great many places, and so on. In a situation of that kind it would be a useful power, used with discretion and judgment, if the police could make application to a District Justice and satisfy him of the need for closing down the public houses, I do not anticipate the necessity for closing down for the remainder of the day or that that would be necessary, but I can quite easily imagine that a situation would arise in which the power of closing for two or three hours would be extremely useful. I think it is simply a matter that the power ought not to be given in such a way as to be restricted to actual riot.

Deputy FitzGibbon, I feel, is right in suggesting that if you have all the elements of very serious trouble you ought to be able to intervene before the explosion takes place, and to take steps to prevent its taking place. However, while I said that I personally would be prepared to accept Deputy FitzGibbon's amendment, I would be content with the Section as it stands, and it is one of the Sections in the Bill that if there was not any keen general objection to

or suspicion about I would be keenest about. I believe it would be a useful power, but I believe a situation that would require its operation would not occur more than half a dozen times in the year, though the power would be a useful power to have.

Amendment put, and agreed to.

AN CEANN COMHAIRLE: The next amendment is after the word "day" ["for the remainder of that day"] to insert the words "or for such shorter period as may be deemed adequate."

Amendment agreed to.

Question: "That Section 2, as amended, stand part of the Bill," put, and agreed to.

Section 3. ["Penalties for opening during prohibited hours"] was agreed to, and added to the Bill.

SECTION 4.

Nothing in any part of this Act shall be construed to apply to sales of intoxicating liquor to lodgers, or to the sale of intoxicating liquor in packet boats, or in canteens in pursuance of any Act regulating the same, or in a registered club as defined by the Registration of Clubs (Ireland) Act, 1904, or shall preclude the sale at any time at a railway station of intoxicating liquors on arrival or departure of trains, or the sale of intoxicating liquor to *bona-fide* travellers within the meaning of the Licensing (Ireland) Acts, 1833 to 1905.

Mr. ALFRED BYRNE: On this Section I would like to know whether this would be the proper time to move a new clause dealing with the point made by Deputy McGarry earlier in the day. As Deputies are aware, in the year 1900 there was an Act passed extending the boundaries of the City of Dublin, and taking in some of the outlying districts. Through the faulty drafting of the Bill at Westminster licensed traders in Fairview area who were brought in under the extension of the boundaries of the City, and who had seven-day licences were debarred from carrying on their trade on Sundays. There are some three or four houses in the Fairview district that have seven day licences, and owing to this faulty drafting of the Act of 1900 they are closed on Sunday, although they

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hold seven day licenses and pay for seven-day licences. In 1906 the matter was brought before the Courts and a decision was given that owing to a fault in the Act disqualification applied to these publicans. In view of the fact that these people are paying very high rents and very high taxation, I ask the Minister if he would say that in a future Dáil this matter would be considered and the claim of these traders allowed, and they would be given the same facilities for carrying on their trade as other people who are paying seven-day licences.

If a promise is now given that the matter will be considered, and if the Minister will say that he will go into the question later on, and if he finds that an injustice has been done we will see that it is remedied, I am prepared to leave the matter at that, but otherwise I would have to move a new clause embodying the right of those traders, and, I presume, this will be the time to do it.

Mr. O'HIGGINS: I am not prepared to accept the amendment indicated by the Deputy and by Deputy McGarry now because an amendment like that moved without notice would be undesirable and unacceptable, but I will undertake to have the matter looked into, and if my Department is satisfied that an injustice exists they will take steps to have it remedied. Whether a Bill would be necessary or not is a matter that needs investigation.

Mr. BYRNE: I am satisfied with that undertaking.

Section 4 was agreed to and added to the Bill.

PART II.

SECTION 5.

(1) In order that any club may be eligible to be registered under the Registration of Clubs (Ireland) Act, 1904, the rules of the club shall (in addition to the matters mentioned in Section 4 of the said Act) provide that no excisable liquor shall be supplied to any person (other than members of the club lodging in the club premises) before the hour of nine o'clock in the morning or after the hour of half-past nine o'clock in the evening on any day.

(2) This section shall not apply to any club which at the passing of this Act is registered under the Registration of Clubs (Ireland) Act, 1904, until the expiration of the certificate of registration of such club which shall be in force at the expiration of two months from the passing of this Act.

Mr. ALTON: I move in this Section to delete the hours "9.30 p.m." as the time at which clubs should close for the sale of intoxicating liquor and to substitute therefor "11 p.m." There is a general feeling that 9 o'clock is too early an hour at which to debar members of registered clubs from receiving intoxicating liquor. All shades of opinion are in favour of the extension of that hour. We have strong temperance advocates who are of the opinion that we might advance the hour, and I think it might be done. Certainly 9.30 would be regarded as rather a harsh regulation by a great many reputable citizens who are members of clubs, and I do not think that any abuse could occur if the hour of 11 p.m. was put into this Section especially as Section 6 make provision for the most stringent kind of inspection. I move this amendment.

Mr. JOHNSON: The Deputy has said that all sections of the Dáil have supported the idea embodied in his amendment. I asked for some reasons why any difference should be made between a public house and a Club. Deputy Gavan Duffy kindly responded to that invitation and gave what he considered to be satisfactory reasons. They were not satisfactory to me. I cannot understand why any special consideration should be given to those men and women who become members of Clubs as against those who do not. I suppose the public house is verily what it has often been called "the poor man's Club." He does not pay a guinea a year, or five shillings a year, or three-pence a night for the privilege of having a seat in a Club, but he goes to the public house and takes his drink. He talks politics, perhaps the virtues of the Government, perhaps the merits of Mr. Alfred Byrne, who perhaps is seeking the voters' support at an election. All these things are discussed around a table—I think I am out of date; they are gener-

ally standing at a counter nowadays, or sitting in a cubicle, in the country at any rate. However, the public house is used as a poor man's Club, but he has to cease at 9.30 p.m. There is very great inducement for him to join a Club so that he can go from the public house to the Club, where he may have more pleasure or—

Mr. BYRNE: And continue to discuss the good qualities of Alfred Byrne.

Mr. JOHNSON: Or otherwise? However, I am not able to understand why special facilities should be given for the consumption of intoxicating liquor to the man who joins a Club as distinct from a man who pays over the counter day by day, or night by night, and I require to have the difference made clear to me. I am open to conviction. I have been in a few places which are called Clubs—they have a billiard table, a card table, and sometimes dominoes, and they help to pass the time while the appetite is being satisfied or created. The amendment rather suggests that that should be allowed for an hour and a half longer than in the case of the other person who goes to the public house either for a "night-cap" or for a conversation. I am not able to see the difference and I have yet to be convinced that there is any reason for any difference in the treatment of the two classes of the community. It may be said that Clubs, speaking generally, are more satisfactorily conducted than public houses. I do not know. I think the public houses are generally under greater supervision; there is more publicity at any rate and consequently less likelihood of abuses. It is said that the public houses exist for the one purpose—to sell liquor—whereas in the Club the sale of intoxicating liquor is incidental. No doubt that is true in many cases, but the incidents happen very frequently.

Mr. ALTON: Question.

Mr. JOHNSON: The incidents happen very frequently—in some Clubs less frequently than others—and I am anxious to hear whether there are any better reasons than those adduced by Deputy Gavan Duffy for the difference between the habitué of the public house and the habitué of the Club.

Mr. GAVAN DUFFY: I could quite understand Deputy Johnson's argument if his premises were right. They are not. Deputy Johnson is attacking this amendment on the assumption that the club is the rich man's monopoly, and that he is to be allowed to enjoy himself when the other man is turned out of the public house. I think the Deputy overlooks the fact that there are in this city of Dublin a number of clubs for working men and other men connected or linked by trade interests or other interests—men who can in no sense be described as rich men, who use these clubs constantly, to whom the clubs are a very great convenience and a legitimate source of recreation. He described the public house as the Poor Man's Club. He has overlooked the fact that in this city at all events whatever may be the case elsewhere there are a number of clubs which will come within this Bill—I have no doubt the Deputy on my right could get particulars if he thought proper—many of them consisting of working members, which would be affected by this decision. When I was speaking of the hardships of closing down the supply of intoxicating liquors at 9.30 in places where people come to rest and talk in the evenings and which are not primarily places for drinking at all, I had one or two of these very clubs in my mind. This is by no means a question of making a distinction between rich and poor.

Mr. JOHNSON: I do not desire to confine my inference to rich and poor, but to those who join clubs and those who do not. I am quite well aware that a large number of workmen join clubs. But so far from the provisions of the Section as it stands hurting those people, if they join clubs legitimately for the purpose of recreation and pleasure and enlightenment, the provision would not be a hardship at all. It is only in so far as they use those clubs for drinking purposes that there is any hardship entailed. I do not see why a man who is not a member of a club if he wants a drink of beer, porter or whiskey must go to a publichouse at 9.15 p.m., whereas if he is a member of a club he may delay his nightcap until 10.45 p.m. My mind is not fixed on this matter, but I require to be convinced that there is any legitimate distinction

[Mr. Johnson.]

to be drawn between the two sections of the community and to be shown why one section should have a preference over the other.

Mr. ALTON: I looked for some arguments from Deputy Johnson and I have not heard any. His whole argument is based upon the abuse of a figure of speech. He starts off by telling us that the public house is the Poor Man's Club thus making a distinction between clubs and clubs. Now that is nonsense. The public house is not the Poor Man's Club. I would be sorry for the poor man if it were. I hope we shall have better clubs for the poor man some day. Talk to any publican in Dublin and tell him he is running a Poor Man's Club and he will smile. His business is to sell drink and sell as much drink as he can and make as big profit as he can. That is what his house is for. It is not there in the interests of the poor man. It is an unfortunate thing that the poor man has no other club to go to. I am not speaking on behalf of any class. It is not a case of setting up one class against another. There are poor men in Dublin who do belong to clubs and they have no opportunity of going to these clubs until the evening, when their work is over. It is easy to see that this legislation would be a hardship on them and it is well known that frequently you never want a drink until you feel you cannot get it.

Mr. JOHNSON: Does that only apply to club men?

Mr. ALTON: I think it is an unfortunate and unnecessary restriction on the only enjoyment of a very reputable portion of the citizens of the Saorstát.

Mr. JOHNSON: Did the Deputy vote for the Second Reading? I think he did and thus supported a restriction on the rest of the people who are not members of clubs.

Mr. McGOLDRICK: I support Deputy Johnson's view in regard to this proposal. I think if you extend the hours for clubs it will provide a very powerful incentive to those people who frequent these other licensed premises to join clubs. They will go there instead of going to the places they have been in the habit of going. I think both should be left on

the same level. A preference should not be given, and in this case I do not think the preference is being given to the people who are the most deserving. They have at home the company and the comforts that other people have. In my opinion no preference should be given to the members of clubs over and above what other people enjoy. If you give such a preference, you are using yourself as an advance agent for the recruitment of members of clubs. That is the only thing this amendment will do.

Professor THRIFT: I am not much of a club man, but I do think that, in fixing this early hour, what Deputy Johnson refers to as the "night-cap" will be partaken of much earlier than it would be, and will be continued to a later hour. If you say that a man shall not purchase a drink after 9.30 he will probably start at 9.15, when otherwise he would delay it much longer. Instead of diminishing the consumption of drink, I think this will increase it, and much more harm will be done by fixing the early hour than by fixing the later hour. There is a fundamental difference between the place that lives by the sale of liquor and the place where the sale of liquor merely comes in incidentally.

Mr. A. BYRNE: I rise to support the amendment. I am encouraged by the statement of the Minister for Home Affairs that if a case could be made he would make an extension of an hour in the case of clubs. I am also encouraged by Deputy Johnson's statement that his mind was not clear on the point and that he had not come to a definite decision on the matter yet. I have in mind at least one club. It has 1,000 members. They are all workmen. I know that some of them come in by train after long journeys when other houses are closed. Their club is a Railway Workers' Club. It provides meals, and it has billiard rooms and other facilities for amusement. I do not think that we should prevent that man coming off a long railway journey from going into his club and getting his drink the same as any well-to-do person can get his drink in a high-class hotel after the ordinary hours.

Mr. JOHNSON: Will the Deputy say what is the position of the other person

who came off that long railway journey and is not a member of a club?

Mr. BYRNE: If there is not sufficient organising ability on the part of the other person's friends to form a Workmen's Club and get him into it that is their fault. If the Dáil curtails the rights of the clubs to the ordinary public house hours, some of those clubs that have been organised and kept together by workmen will not be able to pay their rent. These clubs are mainly supported by their own members. A few are made up of a rather good-class worker. I do not think Deputy Johnson's desire is to injure the Workmen's Clubs. I hope the Minister will agree to this amendment. If he wishes to have the names of, at least, three or four good class Workmen's Clubs in the City of Dublin, I will give them to him.

Mr. O'HIGGINS: The case is certainly neither strong or entirely convincing. Yet you do get the germ of an idea for discrimination. I can visualise a certain kind of club, where members go and play games and read, which does not exist primarily or largely with a view to the consumption of liquor. But there are other clubs throughout the country that are very different, and I have been really thinking more of rural conditions than the conditions here in the City. I know that a great deal of night crime has resulted from these rural clubs that have sprung up. The city is not entirely one way either, because when I was a student I remember a workmen's club which I think had more medical students amongst its members than workmen. They only went there after hours. I think it is a case for a reasonable compromise. I suggested an hour before as a possibility. I did not suggest one and a half hours. I will vote against and strongly oppose an extension to 11 o'clock. It may be said that there is not much difference between 11 o'clock and 10.30 o'clock. A man turning out at 10.30 will go home. At least, he will find everyone else gone home and a fairly deserted condition of things in which he can follow his own sweet will unobserved. Men turning out at 11 o'clock will hang around talking until 12 o'clock, and by that time there is a very satisfactory condition of things for the would-be criminal. I am speaking now, essenti-

ally, of rural conditions in the rather lonely areas. I would myself be prepared to accept an amendment giving an hour's latitude, on the understanding that that would be very much on trial, and that we would have this matter looked into very carefully and reported on by the police, and with the full intention of removing that additional hour if, in practice, it proves to be an abuse. I will oppose, and ask anyone I can influence, to oppose the 11 o'clock amendment.

Mr. ALTON: In view of what the Minister has stated, I would ask the Dáil to alter my amendment, and substitute 10.30 o'clock for 11 o'clock.

Leave for alteration of amendment granted.

Mr. JOHNSON: I would like to draw attention to the effect. Patrick Murphy is a member of one of Deputy Alfred Byrne's Workmen's Clubs. He does not like the drink they sell there, but he is prepared to put up with it when he has done as well as he can in other places. He goes to the ordinary public house, he gets two or three drinks and is turned out at 9.30. A few of his cronies meet him in the street and they say: "We will go to a theatre and have a drink." They go to the theatre and are turned out at 10 o'clock. They then say: "We will go to the club," and they go to the club and drink until 10.30. That is the effect of the amendment.

Amendment, as amended, agreed to.

Motion made and question put: "That Section 5, as amended, stand part of the Bill."

Agreed.

AN CEANN COMHAIRLE: Section 13 will be essential, being the short title.

Mr. O'HIGGINS: I wonder if there is any other Section in the Bill on which there would be general agreement.

Professor MAGENNIS: Sections 10 and 11.

Mr. JOHNSON: Would there be any grievance if this matter were left over until the new Dáil has a chance to consider the position? If it is a matter of urgency I do not suppose there will be

[Mr. Johnson.]

any opposition, although these are two long sections and we have not read them. I am told that they deal with legitimate grievances that are not likely to be converted in any way, but what is the position of these licensees if the matter is left over, say, for two months?

Mr. O'HIGGINS: There are a few outstanding cases of hardship. During the year, when things were at their hottest, people simply carried on without certificates. There are a few cases where premises were burned down in one way or another, and when the owners applied for a renewal of licences in respect of new premises they were informed that no licence was attached to the old premises at the time it was destroyed, and that therefore no licence existed to be renewed. There are a few cases of that kind, sufficient to convince us of the necessity for putting in a provision to deal with them. All over the country people carried on during these years with no licence at all, simply with acquiescence on the part of police, and some licences lapsed. I would like very much to get Section 11 through.

Motion made and question put: "That Section 10 stand part of the Bill."

Agreed.

AN CEANN COMHAIRLE: Section 11 is a different question. Is it agreed to take Section 11?

Mr. JOHNSON: No. It is quite a different thing, and I do not agree with it.

Mr. O'HIGGINS: Very good.

Motion made and question put: "That Section 13 stand part of the Bill."

Agreed.

Mr. JOHNSON: Will the title have to be altered?

THE TITLE.

An Act to amend the law relating to the sale of intoxicating liquor and the law relating to the distillation and sale of spirits, and for other purposes connected therewith.

AN CEANN COMHAIRLE: I think, in consideration of the fact that we have only passed seven Sections, one of which is the Short Title, we would have to

amend the Title by stopping at the word "liquor." "The law in relation to distillation" it not dealt with.

The PRESIDENT: I propose to delete all words after "liquor" to the word "spirits," inclusive.

Amendment agreed to.

Motion made and question put: "That the Title, as amended, stand part of the Bill."

Agreed.

Mr. O'HIGGINS: It is necessary that the Bill be divided into two parts, Part I to consist of Sections 1, 2, 3, and 4, and Part II to consist of the remainder. Part I describes the hours and Part II is miscellaneous.

AN CEANN COMHAIRLE: That can be done in the office.

[THE DAIL RESUMES.]

Bill, as amended, reported.

Mr. O'HIGGINS: I move: "That the Bill be received for final consideration."

AN CEANN COMHAIRLE: There is an amendment in Section 1, "In lines 20 and 21 to delete from the word 'person' to the word 'lessee' and to substitute the words 'premises forming part,' so that the sentence, as amended, would read: "This sub-section shall not apply to any licensed premises forming part of a theatre, music hall, or other place of public amusement."

Agreed.

Motion made, and question put: "That the Bill, as amended, be received for final consideration."

Agreed.

Motion made, and question put: "That the Bill do now pass."

Agreed.

DEATH OF PRESIDENT HARDING.

The PRESIDENT: Before the adjournment I would like to move an expression of sympathy with the Government and people of the United States in the great loss they have sustained by the death of their President. The occasion does not call for any words to commend it to the Dáil. The American

nation has sustained a great loss and has our sincere sympathy.

Motion passed in silence, the Deputies standing.

THE ADJOURNMENT.

The PRESIDENT: I move the adjournment now until 4 o'clock. I take it we will not meet until 4.15.

Mr. JOHNSON: Could the President say 4.30?

The PRESIDENT: Very good. The Land Bill will be the only business to be dealt with, unless something very exceptional arises in the meantime. There were some questions to be raised on the adjournment. I have had notice of two and I take it that Deputy Magennis was to raise a third.

Professor MAGENNIS: No. I was going to ask permission to remind the President, as Minister for Finance, that at the close of the debate on the Estimates for Intermediate Education the Minister for Education was good enough to declare his sympathy with the claims made on behalf of the secondary teachers and it was understood that there would be a Supplementary Grant, or something in that nature, to increase the amount for the remuneration of secondary lay teachers. I want to know if the Minister for Finance intends to make any statement with regard to that, before the Session is completely closed.

The PRESIDENT: No; it was not my intention to make any statement with regard to it. I should say that many representations have been made to me by the Minister for Education, by the Ceann Comhairle, by Deputy Magennis, Deputy O'Connell and others, regarding the necessity for increasing the sum which we intended to devote to this purpose. I think that a case has been made. I am perfectly satisfied, personally, that it is a good case. I had intended to introduce the necessary Resolutions to provide for a larger distribution of funds in respect of that service, but all that has occurred in the last few days, the pressure of business, and so on, has prevented me. I should say that the Executive Council is at one with me as regards this matter. I cannot give any guarantee that they are

going to return. I do give this guarantee, that we will recognise and hand on to the people who come after us, that we will regard this as an obligation on the part of the succeeding Ministry to discharge. The sum involved is something like £30,000 or £40,000. It is a very considerable sum, having regard to the present condition of our finances, but we realise the case that has been made, the urgency and justice of the demand, and so far as we are concerned we can only say that if the time permitted we would have discharged it. I do not think that it is reasonable to ask us to do more than that. If time did permit I would have undertaken that during our term of office.

Professor MAGENNIS: We are exceptionally grateful for the Minister's undertaking.

WIRELESS BROADCASTING.

Captain McGARRY: If time permitted, I think the question I am raising could be raised by a question or series of questions. The matter arose only in yesterday's papers, and I had not time to deal with the matter by way of question. This advertisement appeared in yesterday's paper:—

"The Postmaster-General invites applications from Irish persons or firms who are prepared, under licence from him, to undertake the establishment and operation of a 'Broadcasting' Station in Dublin for the supply to the public, by means of wireless telephony, of concerts, lectures, theatrical entertainments, speeches, weather reports, etc. No application will be considered which has not been received on or before the 20th August.

"Applications should be addressed to:—

"THE SECRETARY,
"General Post Office,
"Dublin."

In the same paper appears a paragraph which states:—

"The Postmaster-General has had several conferences with the Irish firms interested in broadcasting, and has placed before them an outline of the scheme which he would be disposed to sanction. The firms in question have, however, failed to agree among themselves, and the Postmaster-General is

[Captain McGarry.]

therefore reconsidering the situation. In the meantime applications from any genuine manufacturing firms, who have not hitherto applied, will be received."

Captain McGARRY: I have good reason to believe that that paragraph was sent out from the Postmaster-General's Office. One would have thought that that advertisement should have appeared in the papers before the conference. I do not know the firms with whom the Postmaster-General has had a conference. I do not know the method he employed in selecting them, and I do not know what method he adopted to find out what firms were interested in broadcasting in this country. Some time ago I was approached by two groups of people in Dublin who wished to start a broadcasting company. They asked me if I could find out some particulars from the Postmaster-General. I interviewed him several times, and I am sorry he is not in his place. He suggested that it might possibly be taken up by the Government as a monopoly. He was not prepared to make any statement with regard to broadcasting and listening-in, but he also told me immediately any arrangements were being made he would inform me. He has not done so. I do not know what the intentions of the Government or the Postmaster-General may have been, but I think I may be pardoned for assuming that if those firms with whom he had conference had not failed to agree that the Dáil would have been presented with what Mr. De Valera would call a *fait accompli*, without having one word of hint from the Postmaster-General as to what his intentions were. When the British broadcasting company was being established, Mr. Kellaway, the British Postmaster-General, kept the British House of Commons informed step by step as the negotiations proceeded. It was a very necessary thing in view of the fact that the Government were involved in agreements, licences and concessions in every single step of the Bill. The Postmaster-General is reported to have submitted a scheme which he would be disposed to accept. Would it be any harm if the Dáil were to know that scheme? I do not think business of

such magnitude as broadcasting, which is going to involve the expenditure of a large amount of capital, is going to be dealt with in a hole and corner manner by the head of a Department without the knowledge of the Dáil. The last sentence in the paragraph is "In the meantime applications from any genuine manufacturing firms, who have not hitherto applied, will be received." That paragraph is probably the result of confusion in the mind of the person who dictated it as to the difference between broadcasting and listening-in, or reception. I think everybody knows that broadcasting is the sending out of the messages, and listening-in is the reception of the messages. So far as manufacturing is concerned it does not enter broadcasting to any great extent, but the manufacturing of the instruments for the reception and listening-in is a very big industry. It would seem that there is an attempt to make the firm who gets the concession for the manufacture of the broadcasting instruments, the manufacturer also for the reception or listening-in apparatus. If that is so there are two dangers. The Postmaster-General, if that is his idea, is creating or endeavouring to create a monopoly. I do not think that is his intention. I rather think that is a matter of confusion. Not alone would he create a monopoly, but you and I and every citizen of the State, who has to pay for his licence will have to pay more for their sets, and you will encourage the manufacturer of amateur sets which will pay no licence. You can take up any technical paper in England and you can find there sets advertised for 5 guineas up to £25, say, for an ordinary serviceable set of 150 to 200 miles range. When the British Broadcasting Company were starting they did not ask for a monopoly for manufacture. A group of representatives of these manufacturing firms came together; they took the risk; they spent several hundred thousand pounds on the broadcasting business, and they did not ask that these firms should have a monopoly. They welcomed competition with all other manufacturers, and they let everyone who wanted to make these machines make them and sell them, provided that they got the royalty. At the present time in Ireland there is no firm which manufactures these sets. It will be a long time before they manufac-

ture them, and if you had a firm in Ireland to manufacture the sets, I wonder then, does the Postmaster-General know that there are 700 patents involved, and to get the use of these patents will, practically, mean 700 arrangements with the patentees. Unless you are only going to broadcast "Phil the Fluter's Ball" and "Bonnie Mary of Argyle," you have got to have agreements with Press Agencies, the Composers' Association, the Playwrights' Association, the Stock Exchange, the Commercial and Maritime Agencies, for political and general information, and the Meteorological Society for weather reports, and so on.

I would like to know whether the Postmaster-General will place a scheme before the House. I think a Committee of the House should be formed to go into and report upon how the Broadcasting business is to be started here. Any company started here in Ireland at the present time would have to be satisfied to lose money for several months. The loss would gradually become less as the number of users increased. I shall be glad to know if the Postmaster-General would appoint a committee so that he could give the House all the information possible.

The PRESIDENT: The Postmaster-General is, unfortunately, absent on important business, and he has left me the legacy of his proof. I take it that the Deputy will have no objection to my giving his reply to the House. He says:

After the transfer of the Post Office Services from the British Government on the 1st April, 1922, permits for the installation and working of Wireless receiving apparatus were issued by the Irish Postmaster-General to experimenters and other persons who complied with the conditions laid down as regards the apparatus and aerial to be used and on payment of a fee of 10s. a year. On the outbreak of the disturbances in the country in July, 1922, these permits were withdrawn at the request of the Military Authorities and all persons in possession of wireless apparatus were required to surrender it to the Post Office for safe custody. The sale, importation or manufacture of wireless apparatus was also prohibited. This general prohibition against the use of wireless apparatus has not yet been removed. For some time past, however, special permits have been given on specified conditions with the approval of

the military authorities for wireless receiving demonstrations at fetes and other entertainments organised for charitable and public objects.

Applications were received from some Irish and British firms for a licence for the establishment of a Broadcasting station in the Free State. The consideration of the British applications has been deferred for the present, but in order that all persons or firms in Ireland interested in the matter might have an opportunity of having their claims considered, notifications were made in the Press inviting applications.

Numerous applications were received, and after examination and sifting three main companies were left. As it was considered that only one Broadcasting station, which should be in Dublin, was warranted if there was to be a reasonable chance of success the firms were asked to confer together with a view to uniting in a joint scheme.

The parties having failed to agree on a plan of co-operation the Postmaster-General summoned them to a Conference and laid down the general conditions on which he would be prepared to grant a licence for broadcasting. These were as follows:—

1. That a Broadcasting Company should be formed with a guaranteed capital of not less than £30,000, which would undertake to erect and operate a Broadcasting Station in Dublin.

2. That the Company should be open to any *bona fide* firm or person carrying on business of manufacturing wireless apparatus in the Free State on taking one or more shares in the Company. The Board of Directors should consist of seven members nominated by the constituent Companies.

3. That the licence should be for five years and to be renewable thereafter at the pleasure of the Postmaster-General. Power would be reserved to terminate the licence at any time for failure to fulfil its conditions.

4. That the importation of wireless sets or component parts of sets should be confined to the Company and its members.

5. That the Company would be at liberty to manufacture and sell wireless receiving apparatus and would receive a share of the fee to be charged by the

[The President.]

Post Office for licences in accordance with the following scale:—

Ordinary Licence Fee, £1 a year.

Company's share, 12s. 6d.

Private Constructor Fee, £2 a year.

Company's share, 32s. 6d.

Schools and Institutions Fee, £1 a year. Company's share, 12s. 6d.

Hotels, Restaurants, Public Houses, &c. Fee, £5 a year. Company's share, £4 10s.

Occasional Licence Fee, £1 each.

Company's share, 12s. 6d.

Traders' or Dealers' Fee, £1 a year.

Company's share, £1.

Amusement Purveyors' Fee, £1 a week. Company's share, 90 per cent.

These terms were found to be generally acceptable to the three firms referred to, but while two of them were willing to join in the formation of the proposed Broadcasting Company they could not see their way to co-operate with the third party. The Postmaster-General met the representatives of the firms in a further Conference and endeavoured to induce them to reconsider their attitude, but without success. He explained that he could not grant a licence to a Company which sought to exclude another Company from participating in the concession, and stated that unless agreement were reached he would have to terminate the negotiations and consider the whole question again. As agreement between the three firms has not been reached the whole matter is now being reconsidered and further applications are being invited. In the meantime it is not possible to release wireless apparatus generally.

I may add the Postmaster-General also said that if the statement was unsatisfactory, or if the Deputy was not perfectly satisfied, he would undertake to meet him and go into the matter with him.

Captain McGARRY: The statement is not satisfactory. First of all, £30,000 is not sufficient, and secondly, what I feared would occur has occurred as indicated in the last portion of the statement. The Minister by only allowing this Company to do Broadcasting would allow them to import all their machinery and they can get for that any price they like. You

will encourage the manufacture of this machinery from which you will get no revenue. I think also the Postmaster-General was quite wrong in picking out three or four firms and suggesting that he would come to terms with them without giving other people any opportunity of coming forward and saying what they were willing to do. I think the answer is most unsatisfactory.

Mr. DARRELL FIGGIS: Before we pass from this I should like to say a word or two. I knew nothing at all about this until within the last week or ten days, when certain of the people concerned came to me with regard to the matter. I am quite prepared to discuss this at any time very fully, but I am perfectly sure that it ought to be postponed and nothing done until we have a new Dáil. I urge that very strongly and for reasons which I say frankly I do not want to bring in here now. I feel very strongly on this matter, but I leave it at that, that no action whatever should be taken until a new Dáil is elected, and that no action should be taken until the consent of the Dáil is first got.

THE NEW REGISTER (PRINTING CONTRACTS).

Mr. JOHNSON: I gave notice that I wished to raise a question in regard to the printing of the Register of Voters, I think a very considerable grievance has been created quite unnecessarily. It seems that a circular was sent out on May 31st to the Printing Offices as follows:—"The dates fixed for the printing of the Register 1923, are set out below. The first copy may be expected by the printer on June 12th. The last copy will be delivered July 7th, and the final copy on July 21st." Now, in the case of which this is a sample—one of many—instead of the first copy being delivered on June 12th, it was July 10th when the first copy was delivered, and the last copy was delivered on July 26th instead of July 7th. Certain dates were given to the printer in which to get this work done. Certain arrangements were made which allowed in this particular case—the case of Galway—five weeks and four days as the minimum time for the contractor. On July 26th the balance of the copy of 29 divisions, the balance

being 9, was received by the printer, but on the same night 16 divisions out of the total 29 of the Register were taken away from the printer because he had not finished them and could not finish them by the end of the period. As a matter of fact they only got 16 days to do the whole of the work for which they were allowed in the contract five weeks and four days. Now in the case in question, 16 divisions, more than half in number of the total register, were taken away from this printing firm, and the printers were disemployed and the firm lost the contract, and the preparation which he had made for carrying out the contract had to be cancelled and certain loss sustained.

That is one case only, but several similar complaints have come from quite a number of towns in the country. The responsibility is the responsibility of the Stationery Office or the Registration Officer and not the responsibility of the printer. We heard on an earlier occasion that the registers were being taken away from one printer and sent to another. I want to ask this definite question: Is it true or not that any of these registers have been taken away from the original contractors and sent to England or to the North of Ireland to be printed. I would like a definite answer to that question, and I would like further to have some assurance, because the damage is done, that where it is clear the printers had sustained loss by virtue of the failure of the Stationery Office or the Registration Officer to supply material in time and according to contract, they will be recompensed for the loss. We are told, and of course I quite understand, that the circumstances required this to be a hurried job, and that they were such that it was necessary for the Government to transfer the printing from one place to

another so as to insure that the Register would be prepared in time. But the printers ought not to be allowed to suffer for that. I want an assurance upon these two points: first, that none of this printing which it was proposed to send elsewhere has been sent out of the jurisdiction of Saorstát, and secondly, that where firms have lost because of the removal of these jobs they will be recompensed for the actual loss they sustain.

The PRESIDENT: With regard to the first question as to whether any printing was sent out of the Saorstát, I have to say that every possible effort having been exhausted, and every possible attempt made to get the work done in time in the Saorstát, and then finding that fifteen hundred pages could not be done here we sent it out. It is being done in England. It is the only case in which that has occurred, and it is by reason of the fact that it could not be done here. We got our information from our advisors and from people who are more than advisors, as to whether it could be done here, and we found it could not. As regards the second question, I am not in a position to say whether the printers can be recompensed. It is a question I suppose of ordinary contract. If we made a contract and we broke it they have got their remedy, but I am not prepared to grant compensation for merely exceptional circumstances or to rectify everything that is set forward as an injustice. They have the same opportunities as any other person, if a contract that they made was broken and its terms not carried out.

Dáil adjourned at 5.30 p.m. until 4.30 p.m. on Wednesday, August 8th.

DÁIL EIREANN.

DÉ CEADAÍN, 8ADH LUGHNASA,
1923. -

(Wednesday, 8th August, 1923.)

Cromadh ar obair an lae ar a 4.35 p.m. Bhí an Ceann Comhairle, Micheál O hAodha, 'sa Chathaoir.

GEISTEANNA—QUESTIONS.

[ORAL ANSWER.]

CLAIMS AGAINST MILITARY IN DINGLE.

LIAM O BRIAIN asked the Minister for Defence whether he is aware that, after the landing of the National Army in Dingle, in November last, a number of horses and cars belonging to carters and jarveys in that town were commandeered, and which were used for a period of four or five months for military operations, and, as a result of which, the cars have been damaged and the horses have deteriorated in value; whether he has received claims on behalf of those carters and jarveys in respect of the use of their horses and cars; and why payment of those claims has not been made.

MINISTER for DEFENCE (General Mulcahy): I do not appear to have received claims in respect of the commandeering of horses and cars and their retention for any period by troops in Dingle, but I find that there are several small hirage claims still outstanding. The latter are being dealt with.

[WRITTEN ANSWERS.]

MOTOR CAR COMMANDEERED.

RIOBARD O DEAGHAIDH asked the Minister for Defence if he is aware that a Ford car, the property of Mr. J. M. O'Connor, of 71 Grand Parade, Cork, was commandeered by the military, under Captain O'Sullivan, in August last; that although repeated applications for its return have been made, it has not been returned; and to ask that, as this man is dependent on this car for his livelihood, if he will issue instructions to have it immediately returned to him.

General MULCAHY: I regret that there has been a delay in tracing and identifying Mr. O'Connor's car, and that owing to its bad state it is not feasible to return it to him. The case for compensation will be considered as quickly as possible.

ACCOUNT FOR BARRACK REPAIRS.

TOMAS O CONAILL asked the Minister for Defence if he can state why the balance of £7 due to Mr. Patrick Casey, carpenter, of Woodford, Co. Galway, for repairs to the military barracks at Woodford, in October last, has not yet been paid.

General MULCAHY: The sum of £7 has now been issued to Mr. Casey.

CIVILIAN WORKER'S WAGES.

TOMAS MAC EOIN asked the Minister for Defence what is the reason for the delay in payment to Mr. John Judge, of Devlis, Ballyhaunis, of wages due to him as a civilian worker, employed by the military in Ballyhaunis, from 2nd October, 1922, to 2nd May, 1923, and whether he will expedite payment of the amount due.

General MULCAHY: It appears that Judge's name was not put on the pay list through oversight, and that he himself did not make representations in the proper quarter until recently. Arrangements are now being made to issue arrears of pay to him.

MILLSTREET MERCHANT'S ACCOUNT.

SEOIRSE GHABHAIN UI DHUBH-THAIGH asked the Minister for Defence if he is aware that more than £300 is due to Mr. A. Duggan, of Millstreet, for goods supplied (timber, coal and iron) to the military forces, and that applications for payment have met with no response; and if he will cause the claim to be investigated and settled as speedily as possible, since it is outstanding since last August, to the great hardship of the claimant?

General MULCAHY: I am aware that Mr. Duggan is claiming more than £300 in respect of goods supplied for billeting, etc. His accounts are at present receiving attention.

DAMAGE TO PROPERTY (AMENDMENT) BILL, 1923.

The PRESIDENT: If there is no objection I would move for permission to introduce the Damage to Property (Amendment) Bill, 1923, so as to leave the road clear. It is a Bill to amend and extend the Damage to Property Compensation Act of 1923. It will be within the recollection of the Dáil that the date which was fixed determining the liability of the State in respect of the Damage to Property Act was the 20th March, 1923. Some objection was made at that time by certain Deputies, and I think by one County Council, as to limiting the date to the 20th March. There has not been very much damage done, relatively speaking, since the 20th March, but a case was put up by more than one Deputy that it should be extended to the 31st March, and some suggested a still later date. It is generally the view that it is scarcely fair to charge a local authority in the area of whose jurisdiction damage has been done from that date until things became normal with the cost which is generally accepted as a national liability. It is proposed to insert the date the 12th May in the Amending Bill. I do not think it is likely that any case will be made against that particular date. It was suggested here on the last day that we might make it the 20th April. Altering the date to the passing of the Damage to Property Act at least has this advantage; it was certainly a much more normal time, and it is a generous acceptance of the case put forward. I formally move for leave to bring in the Bill.

MINISTER for LOCAL GOVERNMENT (Mr. Blythe): I beg to second.

Mr. WILSON: On behalf of the farming element, and of the ratepayers in general, I may say that we quite agree that there was no case at all for fixing such an arbitrary date as the 20th March. As events have turned out, it was found necessary that the date should be advanced. I am very pleased to see that the Minister for Finance has advanced the date to the 20th May. We have to pay the taxes and the rates, and it will be easier for us to pay in taxes for damage rather than to pay in rates. On that account we appreciate very much

the Minister's efforts to relieve us. We hope there will not be occasion to further advance that date.

The PRESIDENT: I would like to remind the Deputy that it would scarcely have been good politics or good business to have put down a future date. The 20th March was the date of the final reading of the measure, and it could scarcely have been within the competence of the Minister for Finance to contemplate further damage being done.

Motion agreed to.

The PRESIDENT: If the Dáil is agreeable I would be prepared to take the second and remaining stages after No. 2 on the Order Paper has been disposed of.

Second Reading ordered for a later hour same day.

DAIL IN COMMITTEE.**LAND BILL, 1923.**

(FROM THE SEANAD.)

SECTION 1.

MINISTER for AGRICULTURE (Mr. P. Hogan): I beg to move that the Dáil agree with the Seanad's amendment:—In Sub-section 5 (b), page 4, line 6, to delete the word "any."

Amendment agreed to.

SECTION 24.

Mr. HOGAN: I move that the Dáil agree with the Seanad in the following amendment:—In Sub-section (2) (b) to insert after the word "residence" in line 3 the words "and which at the date of the passing of this Act retained its residential character."

This amendment is in effect to make good an omission which was made, if I may use the expression, by the Dáil itself. We had intended to make it perfectly clear that every question as to whether land was belonging to this or that category should be looked at from the point of view of its character as from the date of the passing of the Act. We omitted to make that clear. This amendment makes it clear. When considering whether a holding is residential or not, and so outside the purview of the Act, the question must be considered from the point of view of the character of the holding at the date of the passing of the

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Act, not from the point of view of the character of the holding two, three, four or forty years ago.

Mr. JOHNSON: I would suggest that it would be still more in accordance with what the Minister desires if the Appointed Day were the date rather than the date of the passing of the Act. The character of the land might be a factor in determining the Appointed Day.

Mr. HOGAN: I put it to the Deputy that is going too far, and cutting it too fine. We have gone a long distance. I think this meets the equity of the case.

Amendment agreed to.

Mr. HOGAN: I beg to move: "That the Dáil agree with Amendment No. 3:—In Sub-section (3) (c) of Section 24 to delete in lines 6—7 the words "regularly employed on" and to substitute therefor the words "in connection with." I want to assure the Dáil that there is no catch in this amendment. The section will then read:—"Any parcel of untenanted land which is a demesne, home farm, park, garden or pleasure ground, or any holding usually occupied by a person in connection with," and so on. The point is this—the obvious case that one would have in mind, and which the last two or three lines of that clause were intended to cover, would be the case of a gate-house on the other side of the road opposite the demesne gates. It is not only usual but possible and quite probable that a man in the gate-house would not be working in the demesne at all. He might have a gate-house and an acre or an acre and a half behind it on the understanding that he would open the gate if necessary. What happens is that the man is regularly employed somewhere else, and that his wife or son opens the gate when required. The clause itself was intended to cover such cases when going through the Dáil, but, in fact, it did not cover such cases. It did not cover the greater number of cases that should be excluded, and undoubtedly if a man is at a gate-house in connection with such work and gets that gate-house on the understanding that he or some member of his family shall open the gate, it would be too bad that he, by reason of the fact that he got into that gate-house for such a purpose a few days before, that he should be put in the

position of an ordinary farmer in future. That was never intended. Two or three lines there were intended to make clear that he should not purchase. A clause is provided further down to cover such cases or cases where a man at a gate-lodge whose wife and daughter open the gate, and who works elsewhere himself. There is another side to it. A man might occupy a house and be regularly employed in the demesne and be entitled to purchase, and in order to get as near as we possibly could we inserted the words "occupied in connection with." There are two points of view—there are two sides to the question—on the one side you have the case where a man occupies a gate-house and is not regularly employed on the demesne, and he should not purchase, and it was never intended he should. On the other side you have a case in which a man occupies a house and was regularly employed in the demesne, and he should purchase. The words "in connection with" were words used in previous Acts of Parliament with regard to houses occupied by gamekeepers or gatekeepers, or people of that sort. The words "in connection with" express what is meant when we drafted this clause, and I would ask the Dáil to accept them.

Mr. JOHNSON: On this point the Minister has said that the words he now suggests are, as a matter of fact, taken out of existing Acts. Perhaps they have not given rise to any difficulty, but perhaps they have never been questioned. It seems to me that the words "in connection with" are very vague and wide.

Mr. HOGAN: "Occupied by a person in connection with."

Mr. JOHNSON: Is it the person in connection with, or the occupation of the place in connection with?

Mr. HOGAN: Occupation.

Mr. JOHNSON: Could there be any interpretation other than the Minister's? It seems to me to be quite loose, and perhaps he would consider some suggestion such as "ordinarily employed on or in connection with."

Mr. HOGAN: That would not get over the difficulty. There would be cases where a man would be ordinarily employed on and in connection with a demesne who would not be entitled to pur-

chase. I admit it is extremely hard to get a form of words which some cross-grained Commissioner or wrong-headed Judge could not misinterpret. In my opinion these words will meet the equities of the case and will express what we want. They are more in favour of the occupier than the owner of the demesne. There are cases where a man would be ordinarily employed on a demesne and occupy a holding, and would be entitled to purchase. I could not quote them at the moment, but I know there are.

Amendment put and agreed to.

Mr. HOGAN: I beg to move the following amendment:—

To add after Sub-section (3) the following new sub-section:—

(4) Where the Land Commission declare that any land coming within Clause (a) of Sub-section (2) of this section is required for the purpose of relieving congestion the following provisions shall have effect:

(a) If the land so declared forms portion of the holding, the proprietor or tenant of the holding may within the prescribed time and in the prescribed manner require that the entire holding be so declared, and the Land Commission shall in that event either so declare the entire holding or withdraw from the proposed acquisition of the said portion.

(b) If within the prescribed time and in the prescribed manner the proprietor or tenant of the declared land so requires them to do, the Land Commission shall as soon as practicable provide the said proprietor or tenant with a new holding which in the opinion of the Land Commission other than the Judicial Commissioner (subject to the right of appeal to the Judicial Commissioner, whose decision shall be final) shall be equally suitable for the said proprietor or tenant and of not less value than the declared land. The provisions contained in this Act for transferring burdens and rights on the exchange of holdings by agreement shall extend to any exchange of lands effected under this sub-section.

This amendment provides for a vital omission in the Bill as it left the Dáil,

and to my mind constitutes a real improvement in the Bill. The meaning of the amendment is quite clear on the face of it. The meaning of Sub-clause (a) is quite clear also. It is intended to prevent the Land Commission from saying to a man with 150 acres of land, "We are going to take 130 acres and leave you the house and 20 acres." That would be manifestly unfair, and the effect of the amendment is to put the Land Commission in the position of taking either all the holding or none. We must make up our minds to have it one way or the other, and take either all or none of the holding. As regards Sub-clause (b) it should be noted that this section deals with purchased land. There are 20 million acres of land in Ireland, and 13 millions of them are purchased—that is to say, purchased under previous Land Acts or subject to agreements under previous Land Acts. That leaves 7 million acres of all kinds of land unpurchased. Of that there are at least 3 millions under water, waste, bog, and so forth—land that could not be called arable. That is to say, there are about 4 million acres of arable land left. The position would be something like this. It would be, perhaps, more correct to say that of the 17 million acres of arable land 13 millions are purchased. It was pointed out to me that under the Bill as it stood we gave the Land Commission power to take any holding, big or small, comprised in these 13 million acres. That is correct, and in accepting these amendments we will still have power to take any holding amongst these 13 million acres, though it has been already purchased under the Land Purchase Acts. It was pointed out that that was a very serious thing from the point of view of the value of land and also a serious thing from the point of view of security, particularly in view of the fact that in acquiring it we were not giving the market value. It was strongly urged that the effect of such provisions would be to depreciate the value of the land—land comprised in any holding—I am not talking of demesne or untenanted land—and no doubt that was a case that had to be met. The fact is that the last land we shall take will be purchased land, for the reasons I have mentioned, and we will only take it if there is no other suitable land available. The next section deals with that. But for the fact that

I had the actual figures before me which show that it was absolutely necessary to take powers over purchased land if we were to make a real attempt to relieve congestion, I would not stand over vesting land acquired under previous Land Acts, but it was necessary to take that land, and we have to meet the case that was put up to us—the case in regard to the effect of such provisions on the value of land. In the operations of the Bill we would not take more than 10 per cent. of purchased land, so that 90 per cent. would be unaffected in fact. As against that, the power is there to take 100 per cent. if you want to, but on the face of the Bill that would be absurd. Who is to say whose holding is in the 10 per cent. and who is to say whose holding is amongst the 90 per cent? When a man has purchased his holding and goes to the bank for an advance on the security, is he to be told that that is a taint on the holding? The mere fact that we were not going to attach under any circumstances 90 per cent. of the land made it even more necessary to deal with the case, because it would be a shocking thing to taint the whole 100 per cent. because we had to deal with tenancies. There is the further fact that in 97 or 98 per cent, if the Land Commission were taking the purchased land, they would offer a slightly better holding to the man whose holding they were taking. It is rough and ready justice to do it.

They do it for a good many reasons, in the interests of equity and because it is cheaper in the long run. They acquire untenanted land at the Land Commission price, at the resale price, and they give him a holding on it. They transfer his annuity from the holding they acquire on to the holding they give him, and all the other burdens as well. They have really got that piece of purchased land at the resale price without doing anybody any harm, and they are in a position to resell it to tenants outside the demesne as if it were a piece of untenanted land. That is the way the Bill would operate, and in view of the fact that the Bill would operate in that way in any event, and in view of the fact that it was a serious thing that the 18 million acres of Irish land should be tainted, I admitted to the men who made this point that it was due to ourselves and to the country that we should put even the possibility of it beyond

doubt, and the way to do it was quite obvious. We inserted in the Bill what we would do in 97 cases out of 100 in any event. We said, "We have to take a purchased holding." Well, then, we shall give that man land equally suitable and not of less value.

We will have no difficulty in doing that. That puts it out of the bounds of possibility that, as a result of this Bill, there will be any depreciation in the value of land or any insecurity. In fact, it achieves exactly the opposite purpose, and for this reason: Where we take this land we will only do it as a last resort, because there will be no untenanted land in the neighbourhood. The owner owns 150 acres in the middle of congests. As a result of having those all round him, he has been unable to put up his land for sale. We will take him out of that position and give him an opportunity to sell. We will divide his lands amongst the congests for the first time, and so it will become valuable for the first time since he got it. So far from depreciating the value of land, we are appreciating it, and so far from making for insecurity we are making for security. It was suggested first, and I thought along these lines myself, that perhaps we might take this land at its market value. We could not do that. It would be no good for resale purposes. But we really give the owner market value by giving him an equivalent holding without doing anybody any harm. It was suggested that we should draw some line—that we should not touch any land under £40 valuation. I refuse to accept that, because we might have a case, say in Galway, Erris, Monaghan, or Cavan where the only land suitable would be a £40 or £50 holding. We might be cutting out the cases that we want. It is obvious enough that only big holdings are of any use, and only a very small percentage of the big holdings will be touched. There will be even smaller holdings than of £40 or £50 value, which may be wanted in a few cases. If we are really serious in an attempt to relieve congestion we have to take all those circumstances into account. It is absolutely necessary not to depreciate the value of land, and that is no more nor no less than what we should be doing in 97 cases out of 100. These amendments were suggested by Senator Jameson, a man whose criticism was extremely candid and helpful. They were

in furtherance of a case which had to be met, and I recommend this amendment and the next to the Dáil as amendments which definitely improve the Bill in vital aspects.

Mr. GOREY: We make no objection to it.

Amendment put and agreed to.

Mr. HOGAN: I beg to move Amendment 5: To add after the Sub-section (3) a new sub-section as follows:—

“The Land Commission shall not without the consent of the owner acquire land from him under the powers conferred on them by Sub-section (3) of this section so long as there is other unacquired land in the same locality suitable for relieving congestion which does not come within the exceptions mentioned in Sub-section (2) of this section and which the Land Commission can acquire without exercising the special powers given by the said sub-section.”

This deals with demesne land and purchased land, and we are not going to take them while there is other suitable land in the neighbourhood. A man has a demesne and land outside his demesne. We take land outside his demesne or some other man's land before we touch demesne land. That is only fair. It was put to me by Sir Nugent Everard, another man whose services to land purchase did not begin with this Bill, but began in 1903. It was said to me, as he put it, that we took power to take demesne land “up to the knocker.” I said, “Yes, we can.” I was asked could we not draw some valuation line so as to provide, for example, that when a valuation is under £200 we would not touch it. I pointed out the same objection. There might be a very small demesne in which a man lived, and which he worked as an ordinary farm. There might be just one congest or two congests in that neighbourhood, and there might be no other land to deal with them. It might be impossible to migrate them, and five or six acres might make the holdings economic. We had to have the power to take those. Therefore, we could not draw any valuation line. On the other hand, we could not promise to give equivalent land elsewhere. The least we could do was to promise that where there was suitable

land outside the demesne we would not touch the demesne.

Mr. JOHNSON: I do not think this is as easily defended as the last, because it is liable to defeat its object by being so loosely phrased. It will mean, I think, a good deal of controversy as to what is the same locality, what is suitable, and there is nothing in the sub-section as to who is to decide the suitability or whether the same barony or townland or county is the same locality. As it stands, the Land Commission shall not, without the consent of the owner, “acquire land from him under the powers conferred on them by Sub-section (3) of this section so long as there is unacquired land in the same locality suitable for relieving congestion.” If it is bad land within hailing distance, or perhaps aeroplane distance, the land cannot be taken for relieving congestion, and presumably, as the new sub-section is drafted, the owner will decide whether it is suitable. It seems to me that to achieve the end, as the Minister himself has explained, something more is required, and some authority should be defined as the authority which will decide whether the land in question is within the same locality and whether the land is suitable. I ask the Minister to clarify that doubt.

Mr. HOGAN: The authority is the Land Commission, and there is a final appeal to the Judicial Commissioner in all cases. Only on a question of law arising under this section, the only appeal on the whole Bill, the last word, is the Land Commission or the Judicial Commissioner. Rather the Land Commission comes first, and the Judicial Commissioner has the last word in deciding any point in the Bill except any question of law arising under Section 24.

Mr. JOHNSON: Will the Minister just direct me to the section which says that?

Mr. HOGAN: Section 27, Amendment 7.

Mr. JOHNSON: Yes, but does that include the questions of locality and suitability?

Mr. HOGAN: I am coming to that. First I want to state the position. In one case, and in one case only, is there

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any appeal from the Judicial Commissioner, and that is on a question of law arising under one section, Section 24. The question of suitability and the question of locality are questions of fact. I was pressed very, very hard indeed to give an appeal on the question of price, and I pointed out that it was absolutely impossible to let any Court, except the Judicial Commissioner, say whether land should be worth £5,500 or £5,525. But we ought not to argue about certain matters, and there are certain things clear in the Bill. One is that the last word on every question is the Judicial Commissioner, except on a question of law arising under Section 24. The question of whether, in fact, land is suitable and, in fact, is in the same locality is a question for the Judicial Commissioner. Deputy Johnson wants more definition and more precision. We are giving wide powers, I have admitted that, very wide powers indeed, to the Land Commission, and it has been my aim the whole time to define the powers of the Land Commission as far as possible. But when you do give very wide powers to the Land Commission it is extremely difficult, in one direction or another, to define them without finding that you are cutting down their powers, and without finding that, though you are perhaps effecting our purpose as far as one particular section is concerned, you are defeating our purpose as far as another section is concerned. It would be impossible to make that section more precise; there is no question of doubt about it. "In the same locality" is as precise as we can make it. "Suitable"—I have cast about for a form of words and for a formula that would make that section more precise, and at the same time give the same wide and extended powers, and I could not do it. This will give big powers to the Land Commission. The Judicial Commissioner, who is running this in the future, has a great chance, and will be able to effect a complete metamorphosis in certain parts of the country, and we must assume that the man who is the Judicial Commissioner will be a very able man, a man who will know his work, and who will be able to interpret the Act in the spirit and letter. I do not think that there can be any question for a judge as to what is the meaning of "in the same locality"

once he has the facts of the case before him, or as to what "suitable" is, or whether we could not get closer to it. Personally, I am satisfied with that suggestion as it stands, which was the suggestion of the Senator himself, and I would have been prepared to accept something, I think, on that which would not have given the Land Commissioners as wide powers as "in the same locality," but it was the suggestion of a Senator, a Senator who has been extremely candid and helpful on the Bill the whole time. I am perfectly satisfied that that leaves the Land Commission with all the powers they require, and, as far as you could do it, effects the purpose which it is intended to effect.

Mr. JOHNSON: If the Minister does give me the assurance that there is no question about the powers of the Land Commission to decide, I am satisfied. My only reason in making the point was that it seemed to me that there were doubts, but on that assurance I am quite agreeable.

Mr. HOGAN: I gave it about five hours' thought, and I could not get a more suitable form of words. I think the Deputy would find himself in the same dilemma.

Amendment agreed to.

Mr. HOGAN: I move: "That the Dáil agrees with the Seanad in this amendment:—

To add after Sub-section (4) a new sub-section as follows:—"Nothing in this Act shall render it obligatory for the Land Commission to acquire untenanted land which is intermingled with woodland, or the acquisition of which would, in the opinion of the Land Commission, be detrimental to the preservation of woodland and to the interests of forestry, and where any lands vested in the Land Commission under this Act are wholly or practically surrounded by lands under timber, or intermixed with woods, the property of the owner of the lands so vested, it shall be optional to the owner to require the Land Commission to purchase such timber, lands or woods."

The first four or five lines really mean little. They only mean that the Land Commission shall have the option as to whether they should purchase lands which are intermingled with forestry.

They have that already. The second part of it means that in the event of their buying 100 or 200 acres of land, which is under the same tenure as 500 acres of woods, that they are not to take the 100 or 200 acres of land and leave the 500 acres of woods on the owner, but that they should take all. I do not think the Land Commission should be allowed to take 100 acres of good arable land and to leave the owner 200 or 300 acres of land where there is a demesne of any use, but that they should be forced to take the whole of it and vest the woods in the Forestry Department.

Amendment agreed to.

To add a new sub-section at the end of the section:—"Any person aggrieved by a decision of the Judicial Commissioner on any question of law arising under this section may appeal from such decision to the Court of Appeal, but there shall be no appeal from any decision of the Judicial Commissioner on any question of price."

Mr. HOGAN: I beg to move "That the Dáil agrees with the Seanad in this amendment." I have already explained its significance.

Amendment agreed to.

SECTION 28.

In Sub-section (6) (b) to delete, in lines 10 and 11, the words "and whether redeemed or not," and to insert in lieu thereof the words "unless redeemed."

Mr. HOGAN: The point is this. We provide for the Land Commission, when considering whether they can make an advance to a tenant purchaser, that they should take into account any advances that he has previously received, and our idea was that they should take into account any previous advances under any previous Acts, whether they had been redeemed or not. If a man who has got an advance, let us say, on 100 acres, under a previous Act, and redeemed that, and now owns his land absolutely in fee, the fact that he got an advance should not be taken into account—the fact that he redeemed his advance and paid it off should not be taken into account. I think it is fair, in all the circumstances, but the real point is that it makes no difference, because the Land Commis-

sion's power to retain the holding is absolute. They may retain the holding because it is £3,000 or over, and they may retain the holding under the next section: "Any holding as respects which the Land Commission declare that it is not in the public interest that the holding shall be resold to the tenant as aforesaid whether on the ground that the improvement of the holding is essential and practicable or otherwise." So that really it is as broad as it is long; but if we are interested in having the equities of the case stated clearly on the face of the Bill I think this would be better done by the amendment than by the Bill as it originally stood; but it makes no difference. I move that the Dáil agrees with the Seanad in this amendment.

Amendment agreed to.

SECTION 29.

Mr. HOGAN: I beg to move: "That the Dáil agree with the Seanad amendment, No. 9:—

In Sub-section (3) to delete, in lines 49-50, the words "In fixing the compensation payable to the tenant under the said section," and to substitute therefor the words "The compensation payable to the tenant shall be fixed on the basis on which resumption prices have heretofore been fixed under the said section and in fixing the price."

This is merely an amplification of what is already in the Bill. I was asked to make it clear, and I agreed to do so.

Amendment agreed to.

SECTION 31.

Mr. HOGAN: I move: "That the Dáil agree with Amendment 10:—In Sub-section (1) to delete, in line 63, the letter 'g.'" This is a drafting amendment.

Amendment agreed to.

SECTION 32.

Mr. HOGAN: I move: "That the Dáil agree with Amendment 11:—To insert after the word 'shall,' in line 36, the words 'if the owner so requires and.'" It was suggested that there might be trouble if the owner refused to purchase. I pointed out that it was provided for in the last two lines. However, some people wanted to make it plainer, and we inserted the words "if the owner so require."

Amendment agreed to.

SECTION 33.

Mr. HOGAN: I move: "That the Dáil agree with Amendment 12:—To delete, in lines 61 and 64, the word 'may,' and to substitute therefor the word 'shall,' and to insert in line 62, after the word 'tenant,' the words ' (if he so require).'" This is another amendment which makes no difference. I may say the word "shall" was in here at the beginning. The Dáil will note that it is the Land Commission may or may not resume. If they do not resume, then it should not be that they "may resell," but that they "shall resell"; but it does not interfere in any way with the rights of resumption. The reason "may" was put in in the beginning was somebody thought of the contingency, what would happen if the tenant refused to buy—a most unlikely thing—and we got over it by inserting "shall if he so require."

Amendment agreed to.

Mr. HOGAN: I beg to move: "That the Dáil agree with Amendment 13:—To omit, in line 4, page 16, the words 'whether redeemed or not,' and to substitute therefor the words 'unless redeemed.'" I have already explained the significance of this amendment.

Amendment agreed to.

NEW SECTION.

Mr. HOGAN: This amendment is a proposed new section before Section 35. It reads: "To insert before Section 35 a new section, as follows:—

"Where the Land Commission have acquired any land from an owner under this Act, they may purchase from him any demesne or other land in his occupation adjacent thereto at a price which in their opinion represents the selling value thereof, and in such case may resell the whole or any portion of that land to him, as if he were a person to whom advances might be made for the purchase of a parcel of land under this Act. The provisions of Sub-sections (4) and (5) of Section 3 of the Irish Land Act, 1903, shall apply to any resale under this section."

That is to say, the Land Commission may, if they like, do what they used to do under the Act of 1903—buy a man's demesne and resell it to him. This, of course, does not interfere with our powers

to take any demesne land we like for the relief of congestion, but this has in mind demesnes which we do not intend to touch, and which would be left to the owner. We would be taking a man's untenanted land at a certain price; this untenanted land may be heavily encumbered. We are taking his tenanted land at a certain price, and we are also taking his untenanted land at a certain price. In certain circumstances it may be that the man will come out of the whole deal very badly, and it was put to me that in these circumstances we should at least have some sort of relief clause similar to what was in the Act of 1903, and that there is far more reason for it now, in such a case where a man is heavily encumbered and is coming badly out of the whole deal. We could say, "We will do you a good turn; we will buy up your demesne at our own price, we will resell it at our own price, and then advance the money for the re-purchase." The net result is that we give him a certain amount of money at $4\frac{1}{2}$ per cent., and it is completely at the option of the Land Commission.

Mr. JOHNSON: I suppose this is to deal with the case of impecunious owners who want something to go on with?

Mr. HOGAN: That is so.

Mr. JOHNSON: Is it a plea for the hard-up landlord?

Mr. HOGAN: If the Deputy wants an exact answer to that, I say that it is not a plea, but it is in the interest of the landowner who is very heavily hit by the provisions of this Act. It does no one any harm.

Amendment agreed to.

SECTION 36.

Mr. HOGAN: I move: "That the Dáil agree with Amendment 15:—To add at the end of the section the words 'In exercising the powers given by this section the Land Commission shall have due regard to the reasonable requirements of the owner.'" It speaks for itself. I think it will commend itself to the Dáil. I hope the Land Commission will do that in any event.

SECTION 37.

Mr. HOGAN: I move Amendment

16: To insert after the word "lease" at the beginning of line 52 the words "renewable for ever," and in the same line after the word "years" to delete the words "renewable for ever."

This is a drafting amendment. The clause reads: "lease for lives or years renewable for ever." Someone wanted to know whether "renewable for ever" applied to both lives and years. It was suggested that it should be made clearer by making it "lease renewable for ever for lives or years."

Mr. GOREY: "Renewable for ever for lives or years?"

Mr. HOGAN: Yes. I have the opinion of a very good lawyer on this. He says that it is plainer this way. Some member of the Farmers' Party inquired whether "renewable for ever" applied to both lives and years, or whether it was only the years that were renewable for ever. I pointed out that "renewable for ever" applies to both lives and years. It was stated, and I agreed, that it would make it clearer if we made it read "lease renewable for ever for lives or years."

Mr. GOREY: It may satisfy you. What has Deputy FitzGibbon to say to that?

Amendment agreed to.

SECTION 39.

Mr. HOGAN: I move Amendment 17: In Sub-section (1) to insert after the word "Commission" in line 29 the words "upon application in that behalf made to him by the Land Commission."

Amendment agreed to.

Mr. HOGAN: I move Amendment 18: In Sub-section (3) to insert after the word "final" in line 43 the words "save where in this Act otherwise provided."

The amendment speaks for itself. It refers to the right of appeal in Section 24.

Amendment agreed to.

SECTION 44.

Mr. HOGAN: I move Amendment 19: In Sub-section (5) to insert after the word "owner" in line 14 the words "or his lessee."

The amendment also expresses the intention which we had, and which, I think, was implicit in the Bill without it.

Amendment agreed to.

SECTION 46.

Mr. HOGAN: I move Amendment 20: To insert before Section 46 a new section as follows:—

"The definition of ancient monuments contained in Section 14 of the Irish Land Act of 1903 shall include any monument which in the opinion of the Land Commission is of archaeological interest and shall where the Land Commission so declares also include the site for the monument and such portion of the land adjoining it as is necessary to prevent injury and afford access."

The only person, I understand, who knows anything about this is Deputy Alton. He will say whether it is right or wrong. I believe myself it improves the Bill. I understand in the previous Act the word "archaeological" was left out, and the provisions only applied to historical monuments. It is considered by people who know something about the matter that it is necessary that monuments of some value from the archaeological point of view should also be looked after, and I agreed. We have also taken power to take whatever portion of the site is necessary to prevent injury and to afford access.

Mr. ALTON: I congratulate the Minister on this modification of his Bill.

Amendment agreed to.

SECTION 50.

Mr. HOGAN: I move Amendment 21: To delete in lines 15, 16, 17 and 18 the words "when the Bank shall have satisfied the Land Commission that they have repaid to the Society or body of trustees such deposit as aforesaid," and to substitute therefor the words "When the Bank shall have lodged with the Land Commission such deposit as aforesaid."

It would be impossible to explain Amendment 21 without explaining also Amendment 22. They hang together. We thought it well to take over all the Land Bank Societies, good, bad and indifferent, and to give them all a chance. Far the greater number of them are in a flourishing condition, but there are a

[Mr. Hogan.] certain number of them which are not. Our aim was to take them all and give them all a chance of getting on their feet, having regard to the fact that they are getting more money now at $4\frac{1}{2}$ per cent., and that we were paying one-tenth of it, and so on. There might be one or two Societies which were absolutely impossible, and it is well that the Land Commission should have a certain control of the deposit. I think the Dáil understands what the deposit is. The deposit is a deposit of one-third of the purchase money, which must be lodged with the Land Bank by the Societies before they make an advance. We thought it right in the event of any holding being absolutely no security or of any Society being no security whatever for the advance we were going to give them—in cases, for instance, where they bought the land far too dear—we could use that deposit for the purpose of redeeming some of the advance, so that the land would be security for the amount of advance which we would charge on it. We give the Land Commission the advance. The Land Commission is our agent in this matter. If they did come across a case where the lands are not security by any means for the amount of the advance they would have to make, then they are using public money, and it would be against public policy to make the advance. We give a way out by giving a discretion to use portion of the deposit to pay off some of the money, and make an advance for the balance. That is, I think, in all the circumstances, fair, especially in view of the fact that they must be taken over and that the Land Commission must make the advance.

Amendment agreed to.

SECTION 51.

Mr. HOGAN: I beg to move Amendment 22:—

To insert before Section 51 a new section as follows:

The deposit when lodged with the Land Commission shall be invested by them, and the income from such investments so far as not required to recoup the Land Commission for unpaid instalments of purchase annuities (if any) in respect of the advance made to the Society or body of trustees under this part of the

Act, by whom the deposit was originally made with the bank, shall be paid to such Society or body of trustees until the deposit is utilised otherwise by the Land Commission or repaid in whole or in part to the Society or body of trustees under the following provisions, namely:—

- (a) It shall be lawful for the Land Commission at any time before the advance is certified to be repaid, if they are not satisfied with the security for the same, or if the purchase annuities have been allowed to fall into arrear, to utilise the whole or part of the deposit in redemption *pro tanto* of the advance.
- (b) It shall be lawful for the Land Commission at any time, if they are satisfied that the deposit is not required as security for the advance to repay the whole or any part thereof to the Society or body of trustees who originally lodged the same with the bank or to their lawful successors
- (c) Such part of the deposit as shall not have been utilised under the foregoing paragraphs shall, when so much of the advance as is equivalent to the value of the deposit remaining with the Land Commission shall be certified to have been repaid, and provided that the Land Commission are satisfied with the security for the unredeemed portion of the advance, be repaid to the Society or body of trustees who originally lodged the same with the bank or to their lawful successors.

Amendment agreed to.

SECTION 69.

Mr. HOGAN: I move Amendment 23:—To insert before Section 69 a new Section as follows:—

The powers for the apportionment of an annuity or the discharge of portion of a holding from liability in respect of an annuity conferred on the Land Commission by Sub-section (3) of Section 38 of the Land Law (Ireland) Act, 1896, as extended by Sub-section (1) of Section 67 of the Irish Land Act, 1903, may be exercised by the Commissioners of Public Works as regards an

annuity charged on a holding in repayment of an advance made by the said Commissioners for the purpose of the purchase thereof pursuant to the Landlord and Tenant (Ireland) Act, 1870.

The Land Act of 1870 gave the Board of Works power to advance for the purchase of land, so that the Board of Works was the first body in the country to deal in land purchase, not the Land Commission. A number of advances for the purchase of land were made in the same way as the Land Commission is making advances now, and while they had power under the Act to agree to the sub-division of the holding, they had no power to agree to the sub-division of the advances. It was probably a drafting mistake in the Act. The result was that their power to agree to the sub-division of a holding was no good, because they had no legal power to apportion the advance. We are giving them power to apportion the advance, which, in addition to the powers they have already got of sub-dividing, will put them in the same position as the Land Commission in regard to the holdings that have been purchased by advances from them.

Amendment agreed to.

Mr. HOGAN: I move Amendment 24:—"In Sub-section (2), line 11, to insert after the word 'lease' the words 'renewable for ever,' and in line 12 to delete the words 'renewable for ever.'" I have already explained the significance of that.

Amendment agreed to.

Mr. HOGAN: I move Amendment No. 25:—"To add at the end of Sub-section (3) a new Sub-section (4) as follows:

"(4) The expression 'relieving congestion' means the provision of land for the relief of a person or persons having an uneconomic holding or uneconomic holdings or for a person or persons whose holding or holdings has or have been acquired for the relief of persons having uneconomic holdings."

This definition of relieving congestion, if anything, widens the power of the Land Commission. It does not refer to any valuation. It is really an expression of what the practice has been.

Amendment agreed to.

SECTION 72.

Mr. HOGAN: I move Amendment 26:—"To add at the end of the section the following:—

"Provided always that any Rules of Court made to carry out the provisions of this Act, in so far as they concern the relief of congestion, shall be laid before each House of the Oireachtas, and if either House shall, within twenty-one days of such Rules of Court being tabled, pass a resolution annulling such Rules of Court, such Rules of Court shall be annulled, but such annulment shall not prejudice or invalidate any matter or thing previously done under such Rules of Court."

This amendment as a matter of fact, was unnecessary, because the Land Commission must lay its rules on the Table as the law stands at present. It adds nothing or subtracts nothing.

Amendment agreed to.

Amendment 27: Second Schedule: To insert in the Schedule in the proper columns the following:—

3 ED. VII. Cap. 37.	The Irish Land Act, 1903.	Section 56 Sub-section (3)
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Mr. HOGAN: This should be inserted in its proper place between the third and fourth items. It is the last of 3 Ed. VII. Under this section, which we are now repealing, the local Registrar of Births, Deaths and Marriages had to notify the Land Commission of the death of any owner of a purchased holding. The Land Commission a great many years ago used to notify the local Registrar of Titles on getting notification from the Registrar of Births, Deaths and Marriages. Some years ago the local Registrar of Titles notified the Land Commission that they did not require such notification, and the Land Commission since that time have ceased to give such notification to the Registrar of Titles. Nevertheless the local Registrar sends up the information, because he gets 2s. 7d. for each entry. There was no necessity to continue that, and the repeal of this section will save us £70 per year.

Amendment agreed to.

DAIL RESUMES.

AN CEANN COMHAIRLE: It is reported from the Committee that the Committee have agreed with all the amendments to the Land Bill made in the Seanad.

Mr. HOGAN: I beg to move: "That the Dáil agree with the Report of the Committee."

Agreed.

AN CEANN COMHAIRLE: A message will accordingly be sent to the Seanad.

SPECIAL RESOLUTION.

The PRESIDENT: The motion which appears on the Paper in the name of the Minister for Agriculture should have been tabled in my name. The Minister has drawn my attention to it. The motion is as follows:—

Resolved that this House hereby declares that the Bill passed by this House and entitled "An Act to amend the law relating to the occupation and ownership of land and for other purposes relating thereto" and whereof the short title is "The Land Bill, 1923," is necessary for the immediate preservation of the public peace.

I would like to say, Sir, that during the last two or three years a good deal of dislocation of the ordinary administration has been attributable to the land agitation. Questions involving land matters that have been troublesome for the last 12 or 18 months have been intensified to an extraordinary extent by the fact that very great unrest has been evidenced in a great many parts of the country by reason of so many grievances existing, which it is hoped and believed this Land Bill will rectify. Although it can scarcely be said to be an agreed measure, this is a Bill on which the maximum amount of agreement has been brought to bear by all the parties to it. It may be that some people may have thought they could have got better terms and that other people thought they could have got a better price. But I think the general consensus of opinion in the Oireachtas and in the country is that the measure is one that will go far towards making for much more peaceful conditions and much more ordered conditions and for greater security and greater sta-

bility than perhaps any other measure we have had under consideration here. We consider that the public peace is ensured by the passing of this Bill. There is a danger, through the operation of Article 47 of the Constitution, that it might be claimed that the Bill could not pass for seven days. I am myself strongly of opinion, and that opinion is reinforced by every member of the Ministry, that the immediate passing into law of this measure is a matter of urgent necessity for the maintenance of peace. The Dáil is, I think, aware that we have had to employ very large numbers of troops in the execution of decrees. Certain writs have been issued for the recovery of rents, which in themselves constitute an invasion of the terms of this instrument that has been considered so exhaustively by the Dáil, and which has also been passed by the Seanad. Under the law as it stands we are bound to execute decrees which have been issued for rent, and I understand that writs are being issued at present. The Minister for Agriculture has just handed me a telegram which he has had from one part of the country dealing with this very matter. He only received it a moment ago. These things do not make for public peace, and the Government is always in the position of being attacked by both sides—on one side for its weakness and on the other side for its strength. We believe that the maintenance of public peace in this country at the moment will make more for stability than any amount of strength or weakness that can be shown. We believe it ought not to be necessary to employ in the ordinary administration of the business of the country unusual numbers of troops. We should get away from that and get back to normal conditions. There should be respect for decisions in the Courts of Justice properly constituted and administering the law according to justice. We do not anticipate any grave troubles arising out of the land question once this aspect of it has been settled. There will be naturally questions of detail, which will give rise to strong feelings and strong expressions of opinion, and perhaps a certain dislocation of public services now and then. But at least one very marked advance has been made by this measure. I and every member of the Ministry attribute its greatest success to the measure of ac-

commodation which was afforded by all sections of the community in coming to agreement upon a measure of this sort. For that purpose we consider that it is necessary, in the interests of the immediate preservation of the public peace, that this resolution should be passed, which will enable us to record this Act on our Statute Book and make it the law of the land. Accordingly I move the resolution which I have just read.

Mr. HOGAN: I second the motion.

Mr. DARRELL FIGGIS: I agree with the President in most of what he has said in bringing this resolution before the Dáil. I am bound to confess, however, that I have had a little difficulty in discovering exactly what relation much of it had to the resolution before the Dáil. I referred to this matter of Article 47 on the Army Bill. This is the third resolution of this kind which we have had brought before us. I think it is a matter of agreement that the particular article of the Constitution that it is intended to render nugatory was intended to be of effect with the greater part of legislation, and should only be set aside for some special matter of very peculiar urgency. The provisions of Article 47 state that the stay of one week shall not apply to Money Bills or such Bills as shall be declared by both Houses to be necessary for the immediate preservation of the public peace, health or safety. These words were drafted after consultation with certain people, and are an exact replica of the procedure adopted in Switzerland, where similar provisions have effect. For instance, on one occasion it happened that an epidemic occurred there and legislation had to be passed. It was not possible to wait a week for legislation to come into effect, and it was given effect by some such provision as this. But where is the necessity or the urgency for this particular Bill? I have supported the Bill. I think it is a good Bill and a just Bill. It has been before the Dáil for some weeks, and before the Seanad for a good length of time. Several weeks have been occupied with its passage. What evil would follow if one more week were to elapse before this Bill became of legal effect?

I do not see where the urgency of the matter is. The Bill is a good one and would normally become law. There is

no intention I imagine, either from the Dáil or the Seanad to get some resolution under Article 47 in order that a referendum might be put into operation. That has not been suggested. If this resolution were not passed the Bill would, at the end of the week, become good law, and in the intervening period of time not one single discomfort would have arisen because it had been held up by an article of the Constitution. I am perfectly certain it is not the intention in the Constitution that the latter part of that article should be applied to a Bill of this kind, and I do think that it is not a fair use of the Constitution to ask the Dáil to pass a resolution of this kind. Let the Bill take its ordinary course. I said before that I think a resolution of this kind ought to be used very sparingly indeed, and only be used when the words of the Constitution strictly can be enforced, and when the particular Bill in respect of which the resolution was asked is quite clearly necessary, not only for the preservation of peace, public safety and good health, but for the immediate preservation of these desirable things. I do not think that it can be argued that the Land Bill is necessary in that immediate sense. After another week would have passed the position would be exactly the same as to-day, and no evil would have happened. If there are special reasons why it is necessary this Bill should become of effect to-morrow, instead of to-morrow week—and there may be reasons—those reasons have not been given by the President.

Mr. JOHNSON: When this motion was handed round I thought, just as Deputy Figgis thought, that it was a far-stretching of the provisions of the constitution—Article 47—and I began to wonder what can be the intention. I wondered whether the Minister for Agriculture had been frightened by that section of the Farmers' Union led by Senator Sir John Keane, and that he feared there might be a rally of one-twentieth of the voters now on the register, or on the register within seven days, who will ask for the general hold-up of this measure for 90 days so that a referendum might be taken. I knew that it was not likely that two-fifths of the members of the Dáil or a majority of the Seanad would present a petition asking for the holding-up, and I could

[Mr. Johnson.]

only think of the possibility of this fiery cross led by Senator Sir John Keane and the other members of the Farmers' Union against the Bill. But in going through the Bill for the purpose of finding out what the amendments from the Seanad meant, I came across Section 19, and I noticed what the President has pointed out, or hinted at, that proceedings may have been taken but may not be continued or enforced after the passing of this Bill. By passing the resolution we may save 20 or 30 or 40 farmers who owe arrears, and against whom judgments had been given from having these judgments enforced. Consequently, I am prepared to agree for the immediate preservation of the public peace in those holdings that it is well that this resolution should be passed.

Mr. WILSON: I agree with Deputy Figgis that it was never intended, when the Constitution was being initiated, that a Land Bill should be a matter of public safety. But Deputy Figgis lives in the city and he does not know the state of the country. He does not know that at the present time writs are being executed, and that military and police are seizing the cattle of the farmers. I tell him now that unless this resolution is passed you are going to have an immediate breach of the peace in several counties. While I agree with a good deal of what has been said, that only shows you that the people in the city who profess to understand the country are only talking nonsense here, because they do not understand the point at all. The President is doing the right thing. There are a lot of landlords trying to get the money before this Bill becomes law, and I agree that it is doing the right thing to put the Bill into operation at once in order to stop these lawyers and bailiffs and other people. This only shows what the city people in this Dáil know of the realities of the situation. I am pleased to see that the President is alive to the responsibilities of his position, and that he does recognise that he represents the country and not a town.

PADRAIC O'MAILLE: Ba mhaith liom cuidiú leis an rún seo. Is doigh liom go mba mhaith an rud an Bill a chur i bh-feidhm gán a thuilleadh moille.

I wish to support the motion brought

forward by the President. I think it would be a great mistake to wait one day in giving the tenants of Ireland the benefits of this measure. The Government had to take strong action some time ago against parties who had seized lands and unfortunately some of these people are at present in prison. The sooner these people are released the better for the peace of the country, because they will be able to avail of the benefits of this measure. Those people now have the law on their side and there is no necessity for them to seize what the law will give them. It is a very important thing that the tenants of Ireland should get the benefits of this measure with the least possible delay.

Mr. GOREY: I do not understand the real meaning of the President's motion or the reasons that inspired it. The telegram that has been handed to the Minister for Agriculture with reference to seizures made yesterday in Wexford on the Alcock Estate was handed to him after it reached us. I do not know what the real meaning of this resolution is, but I accept it as a means of preserving the public peace. The wonder is how the people of the country have preserved the peace so far. The wonder is that these people in Wexford and elsewhere who have been looking for this trouble have not met the trouble they wanted. I am very sorry that they did not meet the trouble they were looking for. With regard to the remarks of Deputy Johnson in reference to the Farmers' Union and Senator Sir John Keane. Senator Sir John Keane is as much responsible for the Farmers' Union as Jim Larkin is.

Mr. DAVIN: As you are.

Mr. GOREY: When I speak for the Farmers' Union or the Unpurchased Tenants you may accept what I say with some degree of responsibility. When Senator Sir John Keane speaks he speaks as Sir John Keane. He is entitled, of course, to express his opinion as a member of the Farmers' Union, but he is speaking in the capacity of Senator Sir John Keane, and no-one else. He is less responsible for the Farmers' Union than Jim Larkin is for Deputy Johnson's policy, or for those who worked with hatpins outside the Mansion House.

Mr. DAVIN: A pity you were not there.

Mr. GOREY: I would love to see it. These cheap sneers come, I think, very badly from Deputy Johnson. He knows very well that Senator Sir John Keane does not speak for the Unpurchased Tenants. He is only a member of the Farmers' Union, and it is very doubtful, after his recent conduct, if he will even remain a member. I will not speak any further about our private affairs as Senator Sir John Keane and ourselves will be able to settle these matters. I believe this resolution may help to keep the public peace. I do not think the resolution is of any great necessity, but if the Government thinks so, we have no objection to the Bill being put through. There may be some other reason besides the public peace behind it.

Mr. DARRELL FIGGIS: I only want to say that the reasons Deputy Wilson has given are convincing so far as I am personally concerned. I was not unaware of them, but I do think, that in placing a resolution of this kind before the Dáil, the real reason should have been put before us.

The PRESIDENT: I always credited Deputy Figgis with more than the usual amount of common sense. I am rather glad the members of the Farmers' Party were in a position to give him some enlightenment on this Bill. I thought it was common knowledge that there is considerable disturbance, annoyance, and a feeling of uncertainty throughout the country, by reason of these writs for arrears of rent. If Deputy Figgis did not hear of that, I regret it, as he is a very far-seeing man, but perhaps it was beneath his notice. These are things that disturb us very much. We have got to carry out the law fairly as between all the parties.

A DEPUTY: Read the telegram.

The PRESIDENT: I have not got it. The telegram was not sent to me. It was one of those things that go to show that my judgment is of a rather good quality, and, consequently, it is not uninteresting to me. I thank the members of the Dáil for the way the resolution was received. It was received in good faith. The Dáil realises with us the

vital need of disposing of the uncertainty that always surrounds a measure of this sort until the fateful day when it becomes law. We believe it is absolutely essential that it should become law immediately, and for that purpose we put down the resolution. It is not evading the principles or the Articles of the Constitution, but it implements them. It is not outside the Constitution; it is complying with it. We would certainly fail in our duty if we allowed that feeling of uncertainty and unrest, with possible disturbances, to arise in the coming week, in the event of certain people taking advantage of the fact that this Bill was not law for seven days. It would be impossible for us, or anyone else, to repair the damage, once it had been done.

Motion put and agreed to.

DAMAGE TO PROPERTY (AMENDMENT) BILL, 1923.

The PRESIDENT: I beg to move the Second Reading of this Bill. It is unnecessary to say anything further about it.

Mr. DUGGAN: I beg to second.

Standing Orders suspended to enable the further stages of the Bill to be proceeded with following Money Resolution.

COMMITTEE ON FINANCE.

MONEY RESOLUTION.

The PRESIDENT: I beg to move: "That for carrying out the provisions of any Act of the present Session to amend the law relating to Criminal and Malicious Injuries, it is expedient that the authority mentioned in the resolution on this subject adopted by the Committee on Finance on the 22nd February last be further extended so as to cover

" (1) the substitution in the said resolution of a reference to the 12th day of May, 1923, for the reference to the 6th day of February, 1923."

Mr. DUGGAN: I beg to second.

Resolution put and agreed to.

DAIL RESUMES.

Resolution reported.

Question: "That the Dáil agree with the said resolution," put and agreed to.

DAIL IN COMMITTEE.**SECTION 1.**

The Damage to Property (Compensation) Act, 1923 (No. 15 of 1923 hereinafter called the Principal Act) shall be and is hereby amended as follows, that is to say:—

(1) the words and figures "12th day of May 1923" shall be substituted for the words and figures "20th day of March 1923" where the same occur in the following sections, sub-sections or paragraphs of the Principal Act, that is to say:—

- (a) in sub-section (6) of Section 14,
 - (b) in clause (c) of sub-section (9) of Section 15,
 - (c) in sub-section (10) of Section 15,
 - (d) in Section 16,
 - (e) in sub-section (5) of Section 17;
- and

(2) the words "four" shall be substituted for the word "three" where the same occurs in the following sections and sub-sections of the Principal Act, that is to say:—

- (a) in sub-section (1) of Section 2,
- (b) in Section 3,
- (c) in sub-section (1) of Section 15.

Mr. DUGGAN I move the elimination of paragraph (a) in sub-section 1.

The PRESIDENT: This paragraph deals with damage to roads and concerns the Road Board Fund and is immaterial. It is simply saying that the damage that has occurred during the period 20th March to 12th May shall be met out of the Road Board Fund. It does not make very much matter. It will be a matter for the local authorities generally and simply one of accountancy with the Ministry of Local Government as to how it will be arranged.

Amendment put and agreed to.

Mr. DUGGAN: I beg to move: That sub-head (e) in sub-section 1 be eliminated.

The PRESIDENT: Persons who have sustained personal injuries between March 20th and May 12th are held to have a technical right as against the local authorities. I do not know if it is dealt with satisfactorily in this Bill, but if not we would undertake to amend it subsequently. We mean to give per-

sons so injured the same advantages as are at present enjoyed by persons who were injured between the 11th July, 1921, and the 20th March, 1923. In essence this means extending the date from the 20th March to the 12th May in respect of persons injured during that particular period. But there is some technicality about the right they have against local authorities during that period, and that may be open to further consideration in an amending Bill if it should be necessary. If any question is raised that in the ordinary way would exempt the hearing of their claims before the Personal Injuries Commission we will raise no objection to it.

Amendment put and agreed to.

Motion made and question put: "That Section 1 as amended stand part of the Bill."

Agreed.

Section 2 put and agreed to.

Question: "That the Bill be entitled 'An Act to amend and extend the Damage to Property (Compensation) Act, 1923,'" put and agreed to.

[DAIL RESUMED.]

Bill reported as amended,

The PRESIDENT: I move: "That the Bill be received for final consideration."

Question put, and agreed to.

The PRESIDENT: I move: "That the Bill do now pass."

Question put, and agreed to.

AN CEANN COMHAIRLE: This Bill is a Money Bill.

INTOXICATING LIQUOR BILL, 1923.

AN CEANN COMHAIRLE: We have not received any message from the Seanad in connection with this Bill.

The PRESIDENT: I have got an intimation that the Bill met with an "accident." I cannot exactly say the nature of it, but I think it is left over for further consideration by the Oireachtas until after the Election. I understand this motion was passed by the Seanad: "That the further consideration of the Intoxicating Liquor Bill, 1923, be ad-

journed until after the re-assembly of the Oireachtas." I think we may regard it as one of the "slaughtered innocents."

AN CEANN COMHAIRLE: The message has now been received. It is:—That Seanad Éireann have passed the following Resolution:—

"That consideration of the Intoxicating Liquor Bill, 1923, be adjourned until the re-assembly of the Oireachtas."

REPORT OF JOINT COMMITTEE ON ACCOMMODATION FOR THE OIREACHTAS.

AN CEANN COMHAIRLE: Deputies will remember that in accordance with the resolution of the Dáil passed on Friday, June 27th, a Committee on accommodation, was asked to consider the question of temporary accommodation and to report to the Dáil, by last Friday. Unfortunately, notice of the report was omitted from the Order Paper on last Friday; it is on the Order Paper to-day. The Committee had one meeting. The Seanad met in the morning and the Dáil in the afternoon of that week, so it would be very difficult to transact any business in the Committee, and the Committee unanimously decided that it was impossible for them to bring in a Report by Friday, August 3rd, and the Report is, accordingly, presented now.

The PRESIDENT: I think I should mention to the Dáil that my attention has been drawn to the fact that one Dublin morning newspaper credited me with the statement that I believed there was a strong case throughout the whole country for getting the Bank of Ireland premises. I would like to say it was certainly never my intention to make that statement. I have not had an opportunity of looking up what I did say, but I am sure I never said that, and if I misled that Journal I would like now to correct the impression. What I meant to convey was, that there was a certain rather strong case for the Bank by some people, and if I did not add, at that time, that it did not impress me, I would like to add it now. My contention was that we should have premises provided at the least possible cost, of the most commodious kind, and with the least

possible delay, and the Bank of Ireland, I think, does not lend itself to either one or other of these conditions.

Mr. DARRELL FIGGIS: I presume the whole of this matter will be left over until after the Elections. I think we should get some kind of statement on the matter that nothing will be done, and the situation should be left exactly as it is until after the Elections, when there will be a larger and more representative House freshly coming with a mandate from the country to deal with this very important question.

The PRESIDENT: The Deputy, in making that suggestion, is spurring a very willing horse. No Deputy or member, I imagine, would be free to attend to this matter during the elections. We will all watch eagerly the fight the Deputy will make in his own constituency.

Mr. O'BRIEN: Will Deputy Figgis give us an undertaking to be present when this matter comes up again?

Mr. DARRELL FIGGIS: Yes, with the same amount of assurance as Deputy O'Brien can give.

DATE OF DISSOLUTION.

AN CEANN COMHAIRLE: Is the President moving this Motion now for fixing the date of the conclusion of the present Session, and date of re-assembly of the Oireachtas or is he leaving it over until to-morrow?

The PRESIDENT: I think I will ask to leave it over till to-morrow. If the Dáil meets at 11 to-morrow there is still one Bill to go before the Seanad and we could make provision for that, but we would not have to keep the Dáil long.

AN CEANN COMHAIRLE: Are we to meet before or after the Seanad to-morrow?

Mr. JOHNSON: I suggest that we should meet at the ordinary hour, or better still, at the hour we met to-day.

The PRESIDENT: I am perfectly willing if the Dáil so desires.

AN CEANN COMHAIRLE: The motion then is "That the Dáil adjourn until 4.30 p.m. to-morrow."

Mr. DARRELL FIGGIS: That introduces some complexity in the

[Mr. Darrel Figgis.]

wording of this motion, in view of the action that is now being taken. The last paragraph says that a message be sent to Seanad Éireann to advise the Seanad of the passing of these Resolutions, and to request that the Seanad may be pleased to consent to the conclusion of its present Session accordingly. Obviously in that case the Seanad must sit after the Dáil. If the position here be transposed I do not see how the procedure adopted in that motion can be put into effect.

Mr. JOHNSON: Before passing from this can the Minister give us an assurance now, or by to-morrow, at any rate, before this Resolution is proposed suggesting a Dissolution, that the promise with regard to the publication of the Register on this date, the 8th August, will have been fulfilled. I think it would be very unwise for us to agree to a Resolution urging the Dissolution until we have the Register available, because after we have dissolved we will have no control whatever over the publication of the Register. I would urge that it is much more in keeping with the intention of Legislative Assemblies that at the end of a Dissolution there should be in being, at least, the means of electing a successor, and in the absence of a Register there are no such means. We were promised that the Register would be ready for publication on this the 8th day of August, but I am informed that it is not available to-day.

The PRESIDENT: I am instructed that the Register will be available on Friday, at latest. Practically the whole of it is printed, but in some districts it will not be available until Friday, and the publication of a complete Register has been delayed until Friday so that it may be available for everyone at the one time, and so that there will be no danger of anyone getting an advantage out of the fact that part of it might be ready before the whole was complete. It has not been given out to anyone yet. As a matter of fact, I have not seen it myself, but I think it is only fair that it should be available for all persons on the one date and at the one time. I now beg to move the following motion:—

(1) Go gcríochnóidh an Siosón so den Oireachtas agus de gach Tigh de le linn deire suidheanna an dá Thigh ar an 9adh

lá so de Lúnasa, 1923; ar choinnoll ná críochnófar Siosón Sheanaid Éireann gan a thoil féin.

(2) Go socruítear dáta ath-thionóil an Oireachtais agus gurb é dáta é sin ná Dé Céadaoin an 19adh lá de Mheadhon Fhoghmhair, 1923.

(3) Go gcuirtear teachtaireacht chun Seanaid Éireann a chur in úil don Seanad gur ritheadh na rúin seo agus á iarraidh ar an Seanad toiliú leis an Siosón so aige do chríochnú dá réir sin.

(1) That the present Session of the Oireachtas and of each House thereof do conclude at the termination of the sittings of the two Houses on this the 9th day of August, 1923. Provided that the Session of Seanad Éireann shall not be concluded without its own consent.

(2) That the date of re-assembly of the Oireachtas be fixed, and that the same shall be Wednesday, the 19th day of September, 1923.

(3) That a message be sent to Seanad Éireann to advise the Seanad of the passing of these resolutions, and to request that the Seanad may be pleased to consent to the conclusion of its present Session accordingly.

The only change made in this Resolution as originally drafted was to change the date of the termination of the sittings of the two Houses from the 8th August to the 9th of August. It will be necessary to send some kind of intimation to the Seanad, which meets at 12 o'clock to-morrow. The original intention was that the Dáil should meet at 11 o'clock to-morrow, but I see now, in consequence of this Damage to Property Act, that there will be some difficulty about that.

Mr. JOHNSON: Would it not suit the requirements of the Minister if we said in the resolution "the present session to conclude the termination of its sittings on the 9th or the 10th of August, as the case may be, instead of saying on this the 8th." I still press my point that we ought not to dissolve until, as a matter of fact, the Registers are published. If it is possible to meet again on Friday, and that the announcement is then made that the Register is available, that will suffice. I think the Dáil should remain

in being until the Register is actually available for the public.

The PRESIDENT: I have taken the very last day for the Dissolution in this Resolution. If we were to meet on Friday the elections would have to be put back for another week. On the question of the publication of the Register I can assure Deputies that it will be ready on Friday next.

Mr. JOHNSON: May I ask if the Minister can give us a time-table with regard to the elections?

The PRESIDENT: The Dissolution is fixed for the 9th day of August, the nominations for the 18th day of August, and the date of the polling is fixed for the 27th day of August.

Mr. O'CONNELL: In view of the fact that the polling will take place on the 27th August, is not the interval for the re-assembly of the Dáil, which is fixed for the 19th September, rather too long?

The PRESIDENT: Deputies will remember that when the League of Nations Bill was passed it was decided to make arrangements for attendance at the Conference which I understand will be held in Geneva on or about the 10th September. I understand that the meeting of the Conference on that date will be an important one. Allowing for attendance at it on that date, and for the return journey, my opinion is that the delegates could not be back before the 15th September. That would only leave four days to make the necessary preparations for the re-assembly of the Dáil. I therefore do not think we could meet before the 19th September.

Mr. JOHNSON: I would have thought that the result of the election might have had something to say to attendance at that Conference. It would be much more satisfactory, I suggest, for whoever is going to that Conference as the head of the Executive to be able to say that in so going he had the confidence of the Dáil. If the meeting of the Conference is postponed until after that date the position of the responsible Minister might be a very different one. It might be

much more satisfactory for him to know that in going to that Conference in Geneva he already had secured the confidence of the newly-elected Parliament.

The PRESIDENT: If I am not returned at the elections I certainly will not attend the Conference of the League of Nations.

Question put, and agreed to.

UNVEILING OF TEMPORARY CENOTAPH.

The PRESIDENT: I beg to move: "That the Dáil do now adjourn until 4.30 to-morrow.

Before we adjourn I should like to remind Deputies of the ceremonies which will take place on Monday next in connection with the Griffiths-Collins anniversary. A Mass for the repose of their souls will be celebrated in the Pro-Cathedral at 11 a.m. No formalities will attach to this Mass.

At 12.30 the Temporary Cenotaph, which has been erected in Leinster Lawn will be unveiled.

Invitations for that ceremony have been sent to all Deputies and Senators, and I hope there will be a full attendance.

Any member of the Dáil, or of the Seanad, can obtain an additional ticket, if required, on application to the Secretary of the Cabinet.

Deputies and Senators will enter from Kildare Street, to avoid overcrowding, to Merrion Street approaches to the Lawn.

ELECTION DAY: (EMPLOYEES AND THEIR DAY'S WAGES).

Mr. LYONS: I would like to know from the Minister, in view of the fact that the day of the Elections has been declared a general holiday, whether it is the intention of the Government to pay all employees who lose their day throughout the country going to vote at the Elections?

AN CEANN COMHAIRLE: I think the Deputy should have given notice of that question.

Mr. LYONS: I would have given notice about it but for the fact that it was impossible for me to be present at the opening of the sitting to-day. I have

[Mr. Lyons.]

been working so hard in my constituency that I was unable to get here in time.

The PRESIDENT: I think no provision is made in the Electoral Act to meet the payments which the Deputy refers to.

Mr. LYONS: It has already been

decided that the Election Day is to be a general holiday, and I thought it was only right to ask whether all employees who will lose their day will be paid their day's wages by the Government.

The Dáil adjourned at 6.30 p.m. until 4.30 on Thursday, the 9th August.

DAIL EIREANN.

DEARDAOIN, 9^{ADH} LUGHNASA, 1923

(Thursday, 9th August, 1923.)

Cromadh ar obair an lae ar a 4.45 p.m.
Bhí an Ceann Comhairle, Mícheál
O h-Aodha, 'sa Chathaoir.

DAMAGE TO PROPERTY (AMENDMENT) BILL, 1923.

FROM THE SEANAD.

AN CEANN COMHAIRLE: The following message has been received from the Seanad:—"Seanad Eireann has passed the Damage to Property (Amendment) Bill, 1923, without amendment."

THE DISSOLUTION.

AN CEANN COMHAIRLE: The following message has been received from the Seanad concerning the Dissolution of the Oireachtas:—

"The following Motion has been passed by Seanad Eireann:—That Seanad Eireann do consent to the conclusion of its present Session at the termination of the sitting of the Seanad on this, the 9th day of August, 1923, pursuant to the Resolution of Dáil Eireann this day communicated to the House by message from the Dáil."

The PRESIDENT: Now, Sir, I have come to the final stage, to move the Adjournment in accordance with the Resolution, and in moving it I should like to say that I have the honour to thank every member of the Dáil. Since we first met here last September, we have experienced unfailing courtesy, cordial co-operation and assistance, and genuine efforts to help in the difficult and arduous task of the Government. We have not been able to complete the whole legislative proposals of which notice was given in the Governor-General's Speech. I think that something like eleven Bills were mentioned in that Address, and although much legislative work has been done during

the period—something like forty-three Acts of the Oireachtas having been passed—there are three important measures which we were not able to produce in time to have passed into Acts of the Oireachtas. One of these, perhaps the most important, is the Judiciary Bill; the second is the Ministries' Bill and the third is the Patents, Trades Marks and Copyright Bill. Two of these have actually been prepared and are ready for introduction on the re-assembly of the Oireachtas. The third is almost complete.

During the last eight or nine months there have been stormy discussions here but, speaking on behalf of the other members of the Ministry, I should say that none of us has ever experienced a more generous assembly or greater efforts to help in the constructive work which we have had to perform during that time. The Dáil, since its first meeting, to some extent, had the same experience as the first Dáil. Much the same sort of dangers beset the members in attending here, or in coming to attend here and, as far as I can recollect, in no case was there a casualty in the first Dáil; we have had one case of a fatal casualty and one casualty which, happily, was not fatal. I appreciate the courage of the Deputies, and every member of the Ministry also appreciates it, and we wish to testify to the fact that danger did not prevent Deputies from attending to their duty here. I think, Sir, that we owe it also to those who gave their lives to make a more peaceful and orderly country that our testimony to their great sacrifice and our sympathy with their friends should be tendered, and in that respect I think that I would be expressing the views of every member of the Dáil and of the Oireachtas in tendering to them that sympathy in the great sacrifices that have been their unhappy lot to contribute, but which, in the circumstances, they willingly contributed towards making a peaceful and orderly country here. We have had the opportunity of seeing what hard work could be done by those who took up arms in defence of the State, both in the Army and in the other organisations which have made it possible for us to secure both life and property in the State.

I think, Sir, that it is also due that we should express to you, to the Lees

[The President.]

Cheann Comhairle, to Mr. FitzGibbon and Mr. Nicholls our warm appreciation of the great efforts that you, one and all, have made in conducting the business harmoniously, with great dignity and decorum and with very marked ability, and I may venture to express the hope, Sir, that you may live to occupy the same position in the new Dáil.

Mr. JOHNSON: This is the kind of an occasion that I am ill fitted to take advantage of. Most of us, I suppose, would very much prefer not to have lived through the last twelve months, and I think, perhaps, the less said about the last twelve months the better. If it would be possible to blot out of Ireland's history the last eighteen or twenty months we would be pleased, but it is not possible. I think that, apart from any disputed questions, in ten or twenty years' time historians will be able to say that this Assembly has, at least, contributed something to the building up of the idea of Parliamentary institutions. The Dáil has had many shortcomings, and I think the members of it are as well aware of that as any critic. Nevertheless, I feel that a start has been made in the education of the people of Ireland in the importance of a legislative assembly which will conduct its business critically, but with some consideration for their opponents, or whoever is speaking on any question at the moment. I think that we ought to be congratulated upon having as our Ceann Comhairle one who has been able to keep us strictly to business, who has thoroughly mastered the rules of order and debate, and has helped us to follow the right track with regard to procedure. No one, I think, could have done better; I would almost say that nobody else could have done as well as Ceann Comhairle. I join with the President in saying that we all feel sympathy for those who gave up their lives for the ideals to which they subscribed. We regret, as I said, that the history of the last eighteen months has had to be lived through, and so many valuable lives on opposing sides have been lost. The country could ill afford it. The self-sacrifice, that men showed for that cause had it been continued in the up-building of the civil plane, I venture to say we would be looking upon the next year or two, with

very much more confidence than we dare look upon it now. Further, I hope the new Dáil and the country will steel themselves to facing difficulties and problems that require deep thought and study, and boldness in the tackling. If that is the characteristic which is shown, I still have hope that we will get through the period of the next year or two without the calamity that at the moment seems to face us. If one can speak a personal word, and I think I am expressing in this the views of many members of the Dáil, it is that our experiences since September last have meant a considerable advance in our education. We have all learned a great deal of each other and of each other's failings, and of the necessity for a close consideration of questions that are brought forward. I am sure many of us have learned very much of such questions as agriculture, land tenure, constitutional questions, educational questions, police administration, and public safety. Perhaps, with that education whoever is responsible during the next few years will be better able to conduct the administrative and the legislative programme that the Dáil of the future is faced with, than those of us who have tried to do it in the past year. It has been, of course, not merely an educational experience but an interesting episode in some of our lives, and though we, probably, will not all meet again on those benches we may be able to shake each others' hands in the Strangers' Gallery.

Mr. MILROY: I suppose that I might as well avail of this, probably the last opportunity, of making a speech in the Dáil, to express my regret, also that pressure of events have made it impossible for me to get through my legislative measure, but if it should be my fate to come back to this Assembly you can rest assured that the cause of Sweepstakes will be carried to triumph before the next Dáil terminates. I do not want to strike a controversial note on this occasion. I do not think that all the events of the last twelve months have been such as we would like to have blotted out of our country's history. There have been sad episodes. There have been things that made us doubt, perhaps if sanity would eventually reign supreme in this coun-

try, but there have been things which will live, not only in the ordinary way of history but as land marks in the nation's progress. The main reason why I have intervened at all is for this, that we who are bringing to a conclusion the final stages of this assembly's procedure should not forget who it was who made it possible for this nation to be carried into safety from the dangers through which it passed. The rank and file of the Army have done that. They have given this nation stability and security and they have given it a chance of being a place in which it is safe to indulge in the Ten Commandments, and they have made it unsafe and unfit for the assassin and bandit. They have given this country the benefit of sane Parliamentary institutions, and when we congratulate ourselves upon the great things that have been accomplished I think we should not forget who made it possible that those things should be done and we should not allow them to think that we did not appreciate fully the great work that they have done for the nation. I hope that when the history of this period is written the fidelity, the valour, and the steadfastness of the rank and file of the national Army will be remembered as one of the brightest things in this period of Irish history.

Mr. GOREY: I, too, like other Deputies, wish to pay you, Sir, a very deserved tribute for the dignity and courtesy with which you have conducted the business of the Dáil. Some of us, I am sure, have been at times trying to your patience, but I think the thanks of all of us are due to you for the courtesy and kindness with which you have dealt with us and especially for the dignified and high tone upon which you have always maintained the proceedings of the Dáil.

I do not want to refer to the past at all. I prefer to look to the future, and, knowing something of the Irish character, I think we may look to that future with confidence. Irishmen, as I know them, are not remarkable for nursing the baser feelings and the baser passions. There is a generous side to the Irish character, a noble side to the Irish character, and I think that in the near future that that side of the Irish character will show itself and that the men who have been fighting for the last 12 or 18 months will forget, as we hope to

forget, the bitterness of the past. The next year, or the next year and a half, will I hope see those barriers that have kept us apart, removed, and the whole nation, the whole of the Saorstát, and every man and woman within the Six counties working for the common good of this country of ours. Some of us at all events acted according to our lights. We had certain judgments, certain convictions, and every man in this Dáil, I believe, with very few exceptions, acted up to those convictions and was not afraid to take what was coming to him. Some of the men we met coming into this Dáil are not with us to-day. One great man in particular—Séan Hales—I am sorry to say, is not here this evening. I remember the words he used on the evening before he was killed and the words and feelings in his heart ought to be a comfort and a message to us all. I remember the kindly words he used in connection with the men politically against him. I remember the tears in his eyes when he said "these men are not against Ireland; their judgment only is wrong." I shall never forget that evening, and I shall always regret the passing of one of the noblest men I ever knew. To come to the present, the President has proposed the Dissolution of the Dáil, and all I have to say is that I hope it will be a happy dissolution. The Dissolution means an election and I hope it will be a happy election for all of us, and I wish you all a happy return to the Dáil. One thing I am sportsman enough to say is that I hope the best man will win in every case. Deputy Johnson says that the debates here and the life of the Dáil have been educational, especially in agricultural matters. From those benches we have done our best, at any rate, to educate the Dáil, and I hope those lessons we have tried to teach are not lost. I do not know that there is any use in carrying on any further. On behalf of the Party I belong to and of myself I wish to tender the President our tribute. The President and the Executive Council have stood up in time of danger like men to play a man's game, and the country will remember it for the Executive at least.

The PRESIDENT: There was one matter I wished to refer to—first, the case of Mr. Noel Lemass, and secondly, the case of Mr. McEntee, who apparently

[The President.]
 was murdered during the last few days. I have to say that we condemn those acts unhesitatingly, and we wish to exhort all sections of the State to remember that there are means provided for dealing with any such cases, and it will be the duty of the Ministry to make every effort to bring to justice persons who contravene the law; that in securing life and property here we have to secure it for no one section more than another; and that the life and property of those who differ politically from us, or who may take extreme measures, will be dealt with according to law, and only according to law. Those acts have got no sanction, direct or indirect, or in any way, from us, and we will do our duty to every citizen regardless of what section he belongs to.

AN CEANN COMHAIRLE: The Minister for External Affairs has received from the American Consul at Dublin a copy of the following message received from the Secretary of State of the United States:

"The Government and the people of the United States deeply appreciate the resolutions of sympathy passed by the two Houses of the Parliament of the Irish Free State on the occasion of the death of President Harding."

With regard to the conclusion of the proceedings of this Dáil, I think that the Deputies who have taken part in our proceedings since last September may be proud of having taken part in an Assembly which met with the Authority of the Irish people, and which conducted its business in an orderly and proper way and where, as Deputy Johnson pointed out, men had an opportunity of learning how to bear with other men, even though those other men differed from them. Our proceedings have been orderly, and there is another word some-

times applied to them—they have been dull. At a very early part of our proceedings I gave an admission ticket to a lady, who came and sat in the gallery for three hours. She came to me in the Dining Hall and said, "Your Dáil is terribly dull." I said "I have been praying night and day that the Dáil will continue to be dull." The hallmark of a Parliamentary Assembly where real business is being done is what some people would call dullness, but what is really the atmosphere of work. We have succeeded in carrying out our business without undue excitement and without any incidents which could be chronicled as proving the excitable temperament of the Irish people. With regard to the things said about myself, I have only to say that I took up this duty first with great feelings of diffidence, but I have found the duties not by any means so hard as I thought they would have been. That they were not so hard is due entirely to the reasonableness which I found in every member of the Dáil with whom I had to deal, and I had to deal with them all, not only Ministers and heads of parties, but private members. I had not any example where I could complain that unreasonableness was shown to me in any of the various duties which devolved upon me, and I had to take different views from time to time from members. The credit of the way in which our proceedings have been conducted should be shared by every member of the Dáil, and for my part I take this opportunity of thanking members of the Dáil for the way in which they have always treated me, and especially to thank them for what they have said this evening about me. The Dáil is dissolved in accordance with the resolution passed yesterday.

The Dáil dissolved at 5.15 p.m

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TO

DÁIL EIREANN

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[OFFICIAL REPORT.]

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IN THE SESSION 6TH DECEMBER, 1922—9TH AUGUST, 1923.

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